MARYLAND IN NATIONAL POLITICS

J. FRED'K ESSARY

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JOHN HANSON

"PRESIDENT OF THE UNITED STATES IN CONGRESS ASSEMBLED"

(Original portrait owned by Douglas H. Thomas)

Maryland In National Politics

BY

J. FRED'K ESSARY

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This Volume
Is Affectionately Dedicated
To My Wife,
HELEN K. ESSARY.

INTRODUCTION

This book was written with the idea of recording in some permanent form the splendid achievements of that group of Maryland patriots, statesmen, diplomatists and jurists who have contributed most to the greatness of the Republic, men whose public services established them as national characters, as contradistinguished from purely State figures.

In no sense is this a history of Maryland, nor is it a history of the United States. It is, however, a faithful presentation of the parts played in the nation's history by those distinguished Marylanders of the past century who helped lay the foundation of this government, who have builded upon that foundation, who have made their country's laws and have had a potential influence in shaping its destiny.

In dealing with the careers of these men the hard-and-fast lines of stereotyped biography have, in a measure, been abandoned. The places and dates of birth, the early education, the eccentricities of old schoolmasters, boyhood pastimes and youthful love affairs are, of course, affecting details, but they are not the circumstances in the lives of strong men that arrest attention and sustain the interest of those

who study success and honor greatness. It is the design of these sketches to comprehend the big vital facts concerning these illustrious Marylanders, facts that give them their true historical setting.

No other work has come to my notice that treats, in this fashion, of Maryland's share in national politics. Biographies of a few of her individual statesmen have been written. Brief reviews of others are extant, but no previous effort has been made, so far as I am aware, to assemble all the members of this famous company in one volume, preserving in it a register of their service to the nation.

I wish to take this opportunity to acknowledge my appreciation for the valuable assistance and advice given me in the preparation of these sketches by Judge Ashley M. Gould, Senator William E. Borah, Mr. Gist Blair, Dr. Samuel E. Forman, Mr. Arthur Peter, Mr. Douglas H. Thomas, Mr. William B. Rayner, Mr. Philip Francis Trippe, Mr. F. Julian Bailey, Mr. J. Henry Baker, General Thomas J. Shryock and many others.

I may also add that I have consulted freely the published works of Bernard C. Steiner, J. A. J. Creswell, Frank Richardson Kent, Charles Francis Adams, Louis E. McComas, J. Thomas Scharf, Thomas Jefferson and Mad-

ison Davis. The memoirs of Thomas H. Benton, Gideon Welles, James G. Blaine, "Sunset" Cox, Shelby M. Cullom, Ben Perley Poore; the biography of Roger B. Taney, by Samuel Tyler, and that of William Wirt, by John P. Kennedy; the American histories of Henry Cabot Lodge, Woodrow Wilson, John Bach McMaster, James Schouler, Julian Hawthorne, James Ford Rhodes and E. Benjamin Andrews; the Journals of the Continental Congress and the Debates of the Constitutional Convention have been referrd to for the accuracy of many of the historical circumstances outlined in this book.

J. FRED'K ESSARY.

Washington, 1915.

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JOHN HANSON

1715—1783

Civilization accords no rarer privilege to the men who make history than the privilege of founding orderly government. Thousands there may be who have builded upon an order, once established; other thousands who have been privileged to defend it and to enjoy its usufructs, but there are only a few men whom all mankind honor as pathfinders, as bold pioneers in the development of a system of human authority.

And this is just as true of the American Republic as it is of any of the governments that have gone before it or any that have come after it. A mere handful of figures stand out preeminently in the great struggle that gave this country its equality before the world and its people their right to "life, liberty and the pursuit of happiness." A vast multitude of men made sacrifices of their property, their blood and their lives that this end might be achieved, but oblivion has claimed all but that small group of giants who complemented the work of the sword by welding the colonies into a confederation and the confederation into an indissoluble union.

And as the revolutionary period recedes, as the perspective grows, interest in its dramatic events and in its dynamic personalities becomes more and more absorbing. The men who made this republic possible; the men who laid its foundation upon deep and enduring lines; the men whose brain brought into being the organic law of the United States are more and more profoundly venerated by each succeeding generation.

John Hanson, the first President of the "United States of America in Congress Assembled," that is, the first President under the Articles of Confederation, stood among the strongest of these nation-builders as a peer. It was his leadership that brought the last of the insurging colonies together under a common bond; that united their fortunes and their fate forever, and that gave them their first perfected plan of centralized government. It was the leadership of John Hanson that divorced the colonies from the Northwest Territory and paved the way for the ultimate formation of the group of great States beyond the Allegheny Mountains.

For all this Hanson was rewarded with the Presidency of the re-formed Continental Congress the day his second term in that body began. By his election Hanson, already recog-

nized as the first Marylander of his day, assumed the rank and prerogatives of the First Citizen of the Colonies. Washington the soldier, and Hanson the civilian, typified the spirit of this new nation.

During three sessions Hanson presided over the deliberations of the Continental Congress. In that period he saw the American arms triumph over Great Britain. He saw the arrival of the French allies and, with victory at Yorktown, the liberty for which he and his fellow-countrymen had warred for eight long years, established on this continent. He saw the treaty of peace signed and the rights of the colonies guaranteed. As a last official act before his retirement in 1782, Hanson had the distinguished honor to receive General Washington and to present him to the Congress then sitting in Philadelphia. Out of this Congress grew the Constitutional Convention, and out of it the federal government under which the American people have grown to national manhood.

Around John Hanson centered one of the bitterest parliamentary struggles of early American history. As the representative of the only State which had refused to join the

Union at the outbreak of the Revolution, he and his fellow-Marylanders had it within their power to determine whether a republic of united States was to be formed as a result of the successful issue of the Revolutionary War, or whether there should rise up in America thirteen weak but independent Commonwealths.

Maryland, under the leadership of Hanson and his compatriots, finally yielded to the pressure and joined hands with the other colonies, but they did not surrender unconditionally until they had won their fight against the design of the other colonies to hold forever the Northwest, or Crown Lands. This victory on Maryland's part not only changed the whole map of the United States, but it led directly to the formation of the federal union. Incidentally, it raised for the first time the question of States' rights, a question upon which the two great political parties have been founded, a question that brought on the Civil War, and a question that has survived until this day.

It must not be suspected that Maryland's reluctance to cast its lot with the Confederation was the result of any lukewarm feeling within the colony for independence. It is true that, under the old proprietary system of gov-

ernment, a few of the leading factors opposed any step that would separate the colonists from Great Britain. For a brief time these Tories had controlled the Maryland delegates in the Continental Congress and had held out against a declaration for full independence. John Hanson, however, went to Annapolis in 1775 at the head of the Frederick county delegation and, by a masterly campaign, overthrew the proprietary government, installing in its place a provincial convention. Gaining ascendency over this convention, Hanson put Maryland forever on record when he wrote and had passed the following resolution:

"*Resolved,* That what may be recommended by a majority of Congress, equally delegated by the people of the United Colonies, we will at the hazard of our lives and fortunes support and maintain, and that every resolution of the convention tending to separate this province from a majority of the colonies, without the consent of the people, is destructive of our internal safety."

This firm declaration placed Maryland squarely on the side of independence. A later motion in that convention recalled the former instructions to the Maryland delegates in Congress and empowered them to concur "in declaring the United Colonies free and independent States," further cementing the Union. There was, however, a reservation in the ac-

ceptance by Maryland of a part in the general government. This reservation involved a demand that the back country, then claimed in parcels by practically all the colonies, be ceded to the federation. And it was this demand which probably changed the whole course of our national life.

It is the story of this demand on the part of Maryland that marks the place in permanent history now occupied by John Hanson. The ratification of the Articles of Confederation by Maryland had been preceded in the Continental Congress by a bitter struggle over the form of government for the colonies as a body. The Declaration of Independence had been adopted with patriotic enthusiasm at the outbreak of the war and, in subscribing to this instrument, the Congress had dealt with the colonies as one nation. When, however, the formulation of the Articles of Confederation was under consideration, Congress found itself dealing with thirteen sovereign Commonwealths. Each of these States had its special interests to protect, and in the main these interests involved the distribution among them of the back country extending from the Allegheny Mountains to the Mississippi River.

After a prolonged parliamentary battle, the Articles were ratified in 1778 by the delegates

of all the States except New Jersey, Delaware and Maryland. Subsequently, New Jersey and Delaware signed them, leaving only Maryland to complete the Union. John Hanson and his colleague from Maryland, Daniel Carroll, stubbornly refused to subscribe to the Articles on the part of their State until the other colonies agreed to surrender their claims to the Northwest Territory and to dedicate that vast domain to the federal government.

To such a demand the leading States having title to the large area in the Northwest, at first flatly refused to yield. They objected on the ground that they could not be parties to any form of federal government in which so much property and power might be concentrated. They were frankly jealous of their authority and identity as States, and were indisposed to make any sacrifice of land that might, in the future, obscure their individuality. In assuming this position, therefore, the first direct issue of States' rights as opposed to a strong central government, was raised in the Continental Congress. And upon that issue the American Union came dangerously near going upon the rocks, just as upon the same issue seventy years later the Union was actually disrupted and only reformed at the cost of the bloodiest war of a century.

Hanson and Carroll held out to the last against the claims set up by the States to the Crown Lands. They took the position that these lands had ill-defined boundaries; that they could not be successfully held by any of the eastern colonies, and that inasmuch as they had been gained from a common enemy by the effort of all, this domain should inure to the benefit of all alike. Such a position was maintained with an obstinacy that threatened to wreck the whole plan of confederation. In the end the colonies compromised their claims, but prior to the compromise the Maryland legislature found it wise to authorize their delegates to ratify the Articles without further delay. In giving that authority, however, the reservation already referred to was renewed.

The historical circumstance of this premature action by the Maryland legislature is highly interesting. It had been the fixed determination of Maryland to hold out against even a conditional ratification of the Articles of Confederation until the back lands question was settled. Hanson urged this attitude, and his position would doubtless have been adhered to at home but for the receipt of confidential information by the Congress to the effect that France deplored any division among the colonies upon the question of a

federal union. France was then allied with America in the war against Britain, and upon the good will of that nation depended in large measure the success of the Revolution. The view taken of Maryland's refusal to unite with the other colonies was communicated to Hanson, and by him transmitted to the legislature late in January, 1781.

This new situation created a profound sensation at Annapolis. It had never been the purpose of Maryland to withhold her support from her sister colonies in the war for independence. That is clearly shown by the resolution passed by the Provincial Convention in 1775, already quoted. More than that, Maryland had sent her quota of troops to join the Continental Army. She had sent the first body of southern troops to New England, when the command of Frederick riflemen under Cresap and Price marched in 22 days all the way to Cambridge. She had sent Howard, Smallwood, Williams and DeKalb to lead her soldiers. But Maryland had held out against the final ratification of the Articles in order to force the colonies to cede their claims to the back lands to the confederation. Finding, however, that their purpose was wholly misunderstood abroad, and particularly in France, and that the English were

making capital of it in nearly all the courts of Europe, Maryland hastened to put at rest all doubts as to her allegiance by the passage of a resolution empowering her delegates in Congress to sign the Articles forthwith. Because of the historic bearing of this resolution, in that it signalized the completion of the Union, it is quoted in full, as follows:

"WHEREAS, It has been said that the common enemy is encouraged by this State not acceding to the Confederation, to hope that the union of the sister States may be dissolved; and, therefore, prosecutes the war in expectation of an event so disgraceful to America; and our friends and illustrious ally are impressed with an idea that the common cause would be promoted by our formally acceding to the Confederation; this General Assembly, conscious that this State hath, from the commencement of the war, strenuously exerted herself in the common cause, and fully satisfied that if no formal confederation was to take place, it is the fixed determination of this State to continue her exertions to the utmost, agreeable to the faith pledged in the union; from an earnest desire to conciliate the affection of the sister States; to convince all the world of our unalterable resolution to support the independence of the United States, and the alliance with his Most Christian Majesty, and to destroy forever any apprehension of our friends, or hope of our enemies of this State being again united to Great Britain;

"Be it resolved by the General Assembly of Maryland, That the delegates of this State in Congress, or any two or three of them, shall be, and are hereby, empowered and required on behalf of this State to

subscribe to the Articles of Confederation and perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, signed by the General Congress of the said United States by the Honorable Henry Laurens, Esquire, their then President, and laid before the Legislature of this State to be ratified if approved. And that the said Articles of Confederation and perpetual union as aforesaid subscribed, shall henceforth be ratified and become conclusive as to this State, and obligatory thereon. And it is hereby declared that, by acceding to the said Confederation, this State does not relinquish nor intend to relinquish any right or interest she hath with the other United or Confederated States to the back country; but claims the same as fully as was done by the legislature of this State in their declaration, which stands entered on the journals of Congress; this State relying upon the justice of the several States, hereafter as to said claim made by this State.

"And it is further declared that no article of said Confederation can or ought to bind this or any other State to guarantee any exclusive claim of any particular State to the soil of the said back lands, or any such claim of jurisdiction over the said lands or the inhabitants thereof.

"By the House of Delegates, January 3, 1781, read and assented to. By order of the Senate, February 2, 1781. Read and assented to."

This action on the part of the Maryland legislature was followed by the State's ratification of the Articles of Confederation, when on March 1, John Hanson and Daniel Carroll

affixed their signatures to the instrument before the whole body of Congress. Wild applause followed this act, applause that echoed throughout the whole world. France was so pleased at the final union of all the colonies that Count de Vergennes, the French Minister for Foreign Affairs, dispatched a letter to Congress on June 29 felicitating the colonies upon the accession of Maryland. This letter, quoted from the Journals of the Continental Congress, is, in part, as follows:

"The accession of the State of Maryland to the General Confederation, in the opinion of the Court of France, presents very great advantages, among which is this, that Congress, having at last acquired that power which the Act of Confederation has assigned to them, it is to be expected that their orders will be fully and exactly executed, and that they will take advantage of the resources of their country to give to American patriotism new energy. The Minister is directed to inform Congress of the satisfaction the King has received on that account, and to tell them, at the same time, that there is the most pressing necessity to take more effectual measures than heretofore to drive the British out of the Continent. The King entreats the United States, as his friends, not to lose a moment in acting as vigorously as possible against the common enemy."

While Maryland's ratification of the Articles at once dissipated all foreign complications by placing the Federal Union upon a solid basis, this act did not end the bitter domestic

controversy over the western domain. As indicated in the resolution of the legislature authorizing Hanson and Carroll to subscribe to the Articles, Maryland distinctly reserved this phase of the question for future consideration. In fact, Hanson, before he recommended ratification, had secured pledges from many of the members of Congress to the effect that the land issue would be settled to the satisfaction of his State, if not before, certainly soon after the Articles should be unanimously agreed to. Immediately after placing his signature to the Articles, Hanson renewed his fight for the dedication of the western territory to the general government.

New York was the first to yield to Maryland's demands, that State signifying her willingness to give up the claims before Maryland formally ratified the Articles. A short time afterward Congress agreed to recommend the same surrender to the other States. Virginia and Connecticut were the next to withdraw their claims, and before Hanson retired from Congress Massachusetts fell into line, abandoning her interest in the Northwest. Hanson had won his fight. The Maryland idea triumphed and the area out of which Michigan, Wisconsin, Illinois, Indiana and Ohio were carved became the common property of the

Federal Union, "subject to be parceled out by Congress into free, convenient and independent governments."

Having forced the Maryland view upon Congress by his dogged persistence, Hanson at once took his place as one of the strong figures in that body. He had already rendered valuable service to the Union in other ways. He had headed a committee early in 1781, to negotiate a treaty with the Cherokee and Chicasaw Indians; he had defeated the Dunmore expedition; he had served on the committee for both the war and the navy, and had proved a useful member of the body. On November 5, 1781, Congress proceeded to the election of a President, and the Marylander received the election. The following minute from the Journals of the Continental Congress records this act:

"The credentials being read, Congress proceeded to the election of a President; and the ballots being taken, the Honorable John Hanson was elected."

Hanson's first important official act as President of the United States in Congress Assembled was to prepare and forward a letter to King Louis the Sixteenth, expressing the gratitude of the American nation for the support given by France in the defeat of Cornwallis at Yorktown. This letter is the only state

paper from the hand of the Marylander preserved in the records of the Congress. It is as follows:

"GREAT, FAITHFUL AND BELOVED FRIEND AND ALLY:

"At a period so glorious to the arms of France, both by land and sea, and so favorable to the fortunes of America, it is with peculiar satisfaction that we congratulate the Monarch whose wise counsel and generous support have so largely contributed to events illustrious in themselves and promising consequences truly important.

"We wish to convey to Your Majesty our sense of the victory obtained by the Count de Grasse over the enemy's fleet on our coast, and the subsequent reduction of the British armament in Virginia; and we repeat our grateful acknowledgments for the various aids so seasonably extended to us. From the benevolence and magnanimity which have hitherto interested Your Majesty in the welfare of these States, we are convinced that you will on this occasion feel an equal pleasure with ourselves, whose immediate advantage is the result of such fortunate exertions.

"We mention with very great pleasure the zeal and ability manifested by the Count de Rochambeau, commanding Your Majesty's forces in the allied army. His conduct and that of the officers under him, merit our fullest approbation; and we are made further happy by the perfect harmony and affection which have subsisted between the troops of the two nations.

"The distress occasioned to the common enemy by the combined operations will, we trust, point out to both nations the utility of similar measures

in the future; and whilst it induces Your Majesty to supply that naval force which the situation of our country renders necessary, it will urge the United States to every effort which their particular interests, added to their desire of seconding Your Majesty's views, can call forth to insure the complete success of attacks upon the enemy's strongholds.

"It is with great pleasure that the United States continue to number some of Your Majesty's subjects amongst their most able, spirited and faithful officers. It affords the world a striking proof of the intimate connection which subsists between the allied nations and at the same time serves to cement the union which it manifests.

"Major General the Marquis de la Fayette has in this campaign so greatly added to the reputation he had before acquired, that we are desirous to obtain for him, on our behalf, every notice, in addition to that favorable reception which his merits cannot fail to meet with from a generous and enlightened sovereign; and in that view we have directed our Minister Plenipotentiary to present the Marquis to Your Majesty.

"We pray God, great faithful and beloved friend and ally, always to keep Your Majesty in His holy protection.

"Done at Philadelphia, the 29th day of November, in the year of our Lord 1781, and in the sixth year of our independence. By the United States in Congress Assembled. Your faithful friends and allies.

JOHN HANSON, President.

At the end of his third term as a delegate from Maryland, Hanson retired to his native State. He was then 68 years of age and was worn out with public service. He declined

various commissions from his State, preferring to return to his home in Frederick county to spend in quiet the remaining days. He died November 22, 1783. One hundred and twenty years afterward his State honored his name, when it authorized the erection of a statue of him in Statuary Hall, at the national capitol in Washington. By Act of Congress each State is permitted to thus memorialize two of its sons, and Maryland, moved by the recollection of the service John Hanson rendered as a nation-builder, a pathfinder and pioneer in the founding of this government, voted to thus commemorate his service.

CHARLES CARROLL OF CARROLLTON

1737—1832

When the Congress of the United States invited the people of Maryland, a few years ago, to memorialize the public services of two of her renowned sons and to erect statues to their memory in the Capitol at Washington, the whole horizon was surveyed to find two men who had, on the one hand, contributed most to the nation's history and who were, on the other, representative of the State's best traditions.

There were gallant soldiers, eminent jurists, profound lawyers, learned statesmen and accomplished diplomats in the array of distinguished men from which this ancient Commonwealth had to choose. For, from the very genesis of the republic, Marylanders have played an important part in shaping its destiny. They have fought its wars. They have made its laws. They have sat upon its highest court, and they have determined its international relations. Their records presented a veritable wealth of achievement.

And, had this honor fallen upon General Otho H. Williams or Colonel Tench Tilgh-

man, or John Eager Howard, or Smallwood or DeKalb, martial heroes of the Revolution; or upon Samuel Chase or Francis Thomas, or Reverdy Johnson, or Arthur Pue Gorman—leading statesmen of their time; or upon William Pinkney or Luther Martin, or Henry Winter Davis—far famed as lawyers and orators; or upon Caecilius Calvert or Francis Scott Key, or Robert Eden or William Paca—if the honor of a place in Statuary Hall had been accorded to any of this long line, it would not have been unworthily bestowed.

But these men, however splendid their careers, were passed over. Maryland reserved this national memorial, this tribute of a grateful people, for Charles Carroll of Carrollton, signer of the Declaration of Independence, and for John Hanson, the first President of the United States in Congress Assembled. She reserved it for the two heroic spirits who had pledged her to the cause of freedom on this continent, to the men who had led her across the threshold of national life. It was the work, the courage, the devotion of Carroll and Hanson, and their compatriots of the Revolution, which "gave to the world the first true federal State."

And today the bronze images of these two nation-founders stand side by side in the

American Pantheon, flanked by the sculptured figures of the country's heroes.

With the name of Charles Carroll of Carrollton there is associated all the romance and patriotic sentiment of the earliest period of our national history. He stood foremost in the struggle of the colonies against British aggression. He battled tirelessly for the establishment of order and constitutional government, after the bonds were broken. He was the first Marylander to sit in the United States Senate when the new Congress convened. And, as the last survivor of the immortal signers of the Declaration of Independence, "the most illustrious company of men assembled upon the earth since the Apostles," he was for forty years the great American patriarch. His home became a national shrine and his name is yet venerated throughout the land as is that of no other man in all the annals of his State.

The stirring events in the life of Charles Carroll, leading up to the formal declaration by the American colonies of their independence, form a chapter in our history of intense dramatic interest. And yet this chapter tells only half the story of this Marylander's serv-

ice to the people of his State and to the new republic which he helped to create.

Long before the Declaration was signed Carroll had thrown his powerful influence among the colonists of Maryland, his fortune, his all, into balances for liberty. He had joined in denouncing the "Boston port bill." He had demanded that the brig "Peggy Stewart," loaded with tea and lying in the harbor of Annapolis, be burned to the water's edge. He had counselled the Provincial Assembly to revoke the instructions to Maryland's delegates in the Continental Congress—instructions which limited them to obtaining redress for grievances without breaking with the mother country. He had served on a secret mission to Canada, in the hope of uniting that dominion with the colonies. All this was before Carroll went to Philadelphia to affix his signature to the historic instrument.

No less important, however, to the cause of independence and free government were Carroll's contributions of a later period. He served almost continuously on the Board of War while the Continental armies were yet in the field. He aided in frustrating the "Conway cabal," which had sought to depose General Washington in favor of General Gates. When peace came, he labored determinedly for the

formation of a federal union and for the adoption of the organic law drafted by the Constitutional Convention. He accepted a seat in the first Congress as a Senator from his State. And, as a practical legislator, he fathered the famous Judiciary Act and the Assumption Bill, measures which went far toward buttressing the infant government.

Not all of Carroll's fame, therefore, nor all his service to his country may be summed up in the circumstance of his having signed the Declaration of Independence, or even the further circumstance of his having outlived every other signer and every other member of the Continental Congress. The heroic work that preceded the Declaration and the constructive program that followed it, have added immeasurably to the debt which the American people owe this Marylander.

Even before Charles Carroll returned from England, where he had been educated, the agitation for independence had begun. The most stupid King in English history was on the throne. He had resolved in his heart that the colonists in America should bear a greater portion of taxation burdens and, overruling the counsels of the elder Pitt, the Stamp Tax Act had been passed by Parliament. The demand for representation in that body had been

denied the colonies, and blunder had followed blunder, until the ties that bound the men of America to the old country were being strained to the breaking point.

The young colonist while in London had heard of the great Burke; he had listened to the younger Pitt and to Fox espouse and expound the American doctrine, and his profoundest sympathies were with the people at home. Just before he returned to Maryland, in 1764, he happened to be conferring with some members of Parliament in Temple Court when one of them said: "If you colonists revolt we will send 6,000 veteran English soldiers to your country, who will march from one end of it to the other, for there is nothing with which you could resist them." In a flash Carroll answered with this defiance:

"So they may, but your soldiers will be masters of the spot only on which they encamp. They will find naught but enemies before and around them. If we are beaten in the plains, we will retreat to our mountains and defy them. Our resources will increase with our difficulties. Necessity will force us to exert, until, tired of combating in vain against a spirit which victory after victory can not subdue, your armies will evacuate our soil, and your country retire a great loser by the contest."

As soon as he had reached his home this ardent young man plunged into the political

arena. The country was aflame over the outrages born of British ignorance and arrogance. He engaged Daniel Dulaney, the ablest lawyer in the colony, in a controversy famous in its day. At the royal Governor of Maryland, who had sought to levy a tax not sanctioned by the provincial legislature, he hurled this bold and revolutionary threat: "In a land of freedom this arbitrary exercise of prerogative must not and will not be endured."

Although one of the wealthiest men in America, and, therefore, among those whose loss would be greatest if open rebellion followed, Carroll hesitated not a moment in his measures for relieving the colonies of the unjust burdens imposed by the Throne. He joined the Sons of Liberty and traveled from one end of Maryland to the other, urging resistance to British tyranny. Around him gathered a dangerously determined group of spirits. By an odd circumstance, too, it was to this young fire-eater that Anthony Stewart, owner of the brig "Peggy Stewart," had to turn when threatened by the people of Annapolis because of their resentment over the cargo of tea. At once Carroll told Stewart that the ship and its freight must be burned, and burned in sight of the people whom the merchant had insulted. And the vessel, with

all sails set, was fired, while the throngs on shore cheered. "The flames consumed at Annapolis what the waves buried at Boston."

Meantime the Revolution had come and the colonies were preparing to fight to the death. Carroll's boldness and resourcefulness had attracted attention from Massachusetts to Georgia, and when the Continental Congress in 1776 decided to send a commission to Canada to treat with British subjects there in the hope of forming a union, the young Marylander was asked to become a member of that body. This was Carroll's first service in a national role. It was in this connection that on February 15, 1775, the Continental Congress adopted the following resolution:

"That a committee of three on the reports of the committee of correspondence (two of whom shall be members of Congress) be appointed to proceed to Canada, there to pursue such instructions as shall be given them by Congress. The members chosen are Dr. Benjamin Franklin, Mr. Samuel Chase and Mr. Charles Carroll of Carrollton. Resolved that Mr. Carroll be requested to prevail on Mr. John Carroll to accompany the committee to Canada, to assist them in such matters as they may think useful."

On March 20 of the same year Congress prepared instructions to its Canadian Commissioners, authorizing them to open negotia-

tions with Canada for a union of interests in the war against Great Britain. Following this, the draft of a commission was adopted which was to form the credentials of the special envoys. This commission, which has been preserved in the Journals of the Continental Congress, is as follows:

"The delegates of the United Colonies to Benjamin Franklin, LL. D., member of the Royal Academy of Sciences at Paris, F. R. S., etc., etc., one of the delegates of the colony of Pennsylvania; Samuel Chase, Esq., one of the delegates of the colony of Maryland, and Charles Carroll of Carrollton, in the said colony of Maryland, Esq., greeting: Know ye that we, placing especial trust and confidence in your zeal, fidelity, abilities, and assiduity, do, by these presents, constitute and appoint you, or any two of you, commissioners for and on behalf of us, and all the people of the United Colonies, whom we represent, to promote, or to form an union between the said colonies and the people of Canada, according to the instructions herewith delivered to you, and such as you may hereafter receive; and to execute all such matters and things as you are or shall be directed by your said instructions. And we do require all officers and soldiers, and others, who may facilitate your negotiation, or promote the success thereof, to aid and assist you herein; and you are from time to time to transmit and report your proceedings to Congress. This commission to continue in force until revoked by this or a future Congress."

This was a highly important mission. It had been the design of Congress to unite all

the British possessions on the continent in one movement for their common independence. If this plan had succeeded there would today be no British dominion in North America. But the negotiations failed. The defeat and the death of Montgomery, followed by a levy to feed our starving army and reverses of our forces in the north, turned the Canadians against us. Many of them were Catholics and, although Charles Carroll and the Rev. John Carroll, a priest, hoped to influence their co-religionists, they were met with distrust, and finally with open hostility.

Hastening back from Canada, Carroll went immediately to Annapolis and took his seat in the Provincial Assembly. He found that in his absence the colony had definitely moved against an immediate break with England. The delegates from Maryland in Congress had been directed to withhold their vote for complete independence and were, therefore, at Philadelphia standing practically alone among the delegations against the decisive step that was to forever alienate the colonies from Great Britain. Carroll joined forces with John Hanson and Chase, declaring, in perhaps the greatest speech of his life, that then was the time to act and to act with the same patriotism and love of free country that

had actuated the other colonies. This triumvirate swept the convention off its feet. The original instructions were revoked, and on July 2 Carroll himself was named as a delegate to Congress.

A few days later Carroll and his associates, who had at last been authorized to cast the lot of their colony with the other Commonwealths, presented the following credentials to the Continental Congress:

"In Convention, Annapolis, July 4, 1776.

"Resolved, That the Honorable Matthew Tilghman, Esq., and Thomas Johnson, Jr., William Paca, Samuel Chase, Thomas Stone, Charles Carroll of Carrollton and Robert Alexander, Esqs., or a majority of them, or any three or more of them, be deputies to represent this colony in Congress, in as full and ample a manner as the deputies of this colony might have done under any appointment heretofore made, until the next Convention shall make further order therein. Extract from the minutes. G. Duvall, clerk."

Before the new Maryland delegation, armed with this commission, could reach Philadelphia, the greatest drama in human history had been enacted. Twelve of the thirteen colonies had issued the declaration of their freedom to the world through an instrument that has become sacred to every American and which has taken its place in the files of time as

one of the sublime documents in the history of civilization.

There had been, however, dissension and division in the Congress before this first crisis in the Revolution was reached. This comprehended a wider difference of opinion as to the vital move than was indicated by Maryland's unwillingness to cross the Rubicon. On June 7, 1776, the delegates from Virginia had proposed that Congress at once declare the United Colonies free and independent States and absolved from all allegiance to Great Britain. This order went over until the following day, when the Congress resolved itself into a committee of the whole and debated the momentous question for two whole days. Wilson, Livingston, Rutledge and Dickinson argued ably for delay, though they recognized the fact that the colonies would never again unite with England. And in presenting these arguments repeated references were made to the reluctance of Maryland to join in a declaration at that time. Thomas Jefferson, in his Memoirs, gives an account of the proceedings of the days preceding the signing. In this he outlines the contentions of those who wished to act then and there, and of those who preferred to wait. This, in part, is as follows:

"That the people of the middle colonies (Maryland, Delaware, Pennsylvania, the Jerseys and New York) were not yet ripe for bidding adieu to British connection, but that they were fast ripening, and in a short time would join the general voice of America.

"That the delegates from Delaware county having declared their constituents ready to join, there were only two colonies, Pennsylvania and Maryland, whose delegates were absolutely tied up, and that these had, by their instructions, only reserved a right of confirmation or rejecting the measure.

"That the voice of the representatives is not always consonant with the voice of the people, and that this is remarkably the case with these middle colonies.

"That the effect of the resolution of May 15th has proved this, which, raising murmurs of some in the colonies of Pennsylvania and Maryland, called forth the opposing voice of the freer part of the people and proved them to be a majority even in these colonies.

"It appearing in the course of these debates that the colonies of New York, New Jersey, Pennsylvania, Maryland, Delaware and South Carolina were not yet matured for falling from the parental stem, but that they were fast advancing to that state, it was thought most prudent to wait a while for them and to postpone the final decision to July 1st, but, that this might occasion as little delay as possible, a committee was appointed to prepare a Declaration of Independence. The committee were John Adams, Dr. Franklin, Roger Sherman, Robert R. Livingston and myself."

This committee, Jefferson adds, desired him to draw the declaration. This he did, and submitted it to his colleagues. Approved, it was

reported to Congress on June 28, when it was read and ordered to lie on the table. On July 1st the measure was taken from the table and debated in the committee of the whole. At the close of the day it was adopted by the votes of New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, Maryland, Virginia, North Carolina and Georgia. South Carolina and Pennsylvania opposed it. Delaware, New York and Pennsylvania subsequently subscribed to the Declaration, and on the 4th of July, 1776, it was signed by every member present, except Dickinson, of Pennsylvania.

The new delegation from Maryland did not reach Philadelphia in time to join with the other States in signing the Declaration, but on July 19 Carroll arrived at the temporary capital and voted upon the motion to engross this paper. On August 2 Carroll, Chase, Paca and Stone affixed their signatures, and it was during this ceremony that one of the historic incidents in the life of Carroll had its setting.

When the hour arrived for the Marylanders to place their names to the Declaration, John Hancock, President of the Congress, turned to Carroll and asked if the new arrival would sign it. "Most willingly," rang out the voice of the Maryland delegate. He stepped forward,

pen in hand, and wrote the words, "Charles Carroll." As he turned around the delegates began bantering each other as to whether, in case of the failure of the revolution, they would, for their act, hang singly or hang together. The remark was then made to Carroll: "You can escape his Majesty the King, should he at some future time require your presence, because there are so many Charles Carrolls."

The young man's answer was quick and to the point. He reached again for the pen and added the words, "of Carrollton," that his identity might be more easily established if the time should ever come when he should be called upon to pay with his life for the part he was then playing in the cause of independence.

Of this circumstance, Chauncey Depew has said:

"This is the only title of the Revolution. There may have been many men of distinction in different ages and countries whose proud boast was that they had and could transmit to their descendants their name as of the duchy, the earldom, or the barony which had been bestowed upon them by royal grant for distinguished servces or as favors of the crown. But here was a distinction not bestowed, nor granted, but assumed by the writer, not as a title of nobility, not as a claim, like the lands of Blenheim, to a great estate conveyed by a grateful country, but as the

location and description by which the executioner could find him if the cause of liberty failed. The members of revolutionary conventions, as a rule, when the revolutions failed, have met with bloody deaths or been driven into exile."

As soon as Carroll had qualified as a delegate to the Continental Congress he was elected a member of the Board of War, the body created to prosecute the revolution, to supply the sinews and to unite, as far as practicable, all the armed forces of the United Colonies into a general military establishment. With him as members of the board were Adams, Sherman, Harrison, Wilson and Rutledge. And in his diary John Adams tells us that the Marylander was "an excellent member, whose education, manners and application to business and to study did honor to his fortune, the first in America."

It was, too, in his capacity as a member of the board that Carroll threw all the weight of his influence against the success of the Conway cabal then plotting the overthrow of General Washington. This conspiracy for a time seriously threatened the organization of the Continental Army. The cabal had hoped to put General Gates in supreme command of the troops and, by humiliating Washington, force his retirement. The plotters failed ignominiously. For his service in this con-

nection Carroll won the affectionate gratitude of General Washington, an affection that was made manifest many times in later years.

Carroll remained a member of the Congress long enough to support the determined campaign of his colleague, John Hanson, for the dedication to the general government of the Northwest lands, to which claims had been made by a number of the colonies. He resigned in 1778, before the Articles of Confederation were finally adopted, returning to Annapolis, where he resumed his seat in the State Assembly. As a member of that body, he led the fight for the adoption by Maryland of the Federal Constitution of 1789. He had declined election to the Congress of the Confederation because he foresaw the powerlessness of that unstable body, but had thrown himself with enthusiasm into the fight for the ratification of the Constitution.

In fact, the convention which drafted the Constitution had its inception in a conference between commissioners representing Virginia, Maryland, Delaware and Pennsylvania. Washington and Gates had gone to Annapolis shortly after the conclusion of the war to meet with Carroll, Stone and Samuel Hughes to open and extend the navigation of the Potomac River. Commissioners from Pennsyl-

vania and Delaware had also been invited, because of the proposal to build what is now the Chesapeake and Delaware Canal. These men met in Annapolis in 1784, and later at Mount Vernon. The commissioners early foresaw the futility of States acting longer as individual units, and proposed a general convention to assemble in Annapolis in 1786. Madison, who attended this later meeting, says that it lead directly to the calling of the Federal Convention which framed the Constitution.

Under this Constitution, Carroll was sent to the United States Senate as the first Senator from Maryland. His colleague in that body was John Henry. In 1789 they appeared in New York and executed their oaths of office in the old City Hall of that city. At the outset Carroll aligned himself with Washington and Hamilton and became an uncompromising Federalist. His authorship of the Judiciary Act and of the Assumption Bill in the First Congress were the distinguishing features of his two-year term. He was re-elected to the Senate, but returned to Maryland shortly afterward to spend the remainder of his days building for the future of the new State. On July 4, 1822, he appeared for the last time at a public function, when he helped lay the cor-

nerstone of the Baltimore and Ohio Railroad, the first trunk line to be promoted upon this continent.

Charles Carroll of Carrollton was the last survivor of that group of patriots who had placed their signatures upon the Declaration of Independence. Forty-seven of them lived to see the freedom to which they had pledged their constituences recognized by Great Britain. In all, forty-three of the signers lived to see the Constitution which they made possible, and the organic act under which we live, ratified by thirteen sovereign States. Three of them lived for more than fifty years after the July day upon which they asserted their political deliverance. On the morning of July 4, 1862, just one-half a century after the Declaration was adopted by the Continental Congress, three members of that body—Thomas Jefferson, John Adams and Charles Carroll of Carrollton—were yet upon earth. On the evening of that day there remained but one, Carroll, who lived six years longer. Daniel Webster, in his incomparable oration upon the death of Adams and Jefferson, delivered in the Senate, concluded it with the following tribute to the last of the signers:

"Of the illustrious signers of the Declaration of Independence there now remains only one, Charles

Carroll. He seems an aged oak, standing alone on the plain, which time has spared a little longer after all its contemporaries have been leveled with the dust. Venerable object! We delight to gather around its trunk while it yet stands, and to dwell beneath its shadow. Sole survivor of an assembly of as great men as the world has ever witnessed in a transaction one of the most important that history records, what thoughts, what interesting reflections must fill his elevated and devout soul! If he dwell upon the past, how touching its recollections; if he survey the present, how happy, how joyous, how full of fruition of that hope which his ardent patriotism indulged; if he glance at the future, how does the prospect of his country's advancement almost bewilder and weaken conception! Fortunate, distinguished patriot! Interesting relic of the past! Let him know that, while we honor the dead, we do not forget the living; and that there is not a heart here which does not fervently pray that Heaven may keep him yet back from the society of his companions."

JAMES McHENRY

1753—1816

Three charters of transcending consequence stand out in the early history of the Republic as monuments to the constructive genius of our government's founders. The Declaration of Independence, the Articles of Confederation and the Constitution of the United States are the concrete expressions of that genius.

And with each of these great instruments the name of a Marylander has been intimately and traditionally associated. There is an historic affinity between Charles Carroll of Carrollton and the Declaration; another between John Hanson and the Articles, and yet another between James McHenry and the Constitution.

Carroll was the most picturesque figure of this group; Hanson the most exalted, in his day, but neither of them rendered more substantial service to future generations of Americans than did McHenry, as the head of the Maryland delegation in that convention which framed the Federal Constitution, a constitution which Gladstone described as "the most wonderful work struck off at a given time by the brain and purpose of man."

Though McHenry had followed Washington and Lafayette into the Revolutionary Army, sharing their fortunes and enduring their hardships; though he served honorably, afterward, as a delegate in the Continental Congress, and though as Secretary of War he aided two Presidents in establishing a system of executive authority for the new nation, the crowning achievement of his long and distinguished career was his part in giving to the people of the United States a fundamental law.

Moreover, to complete the work he and his associates performed at the Philadelphia Convention, McHenry returned forthwith to the State whose commission he had held and, throwing the weight of his great influence into the scales, prevailed upon Maryland to ratify this organic act. Similar action by eight other Commonwealths made the Constitution effective and gave us our first permanent plan of federal government.

The Declaration of Independence paved the way for the Articles of Confederation. The Articles served imperfectly their purpose in prosecuting the War of the Revolution. But it remained for the Constitution to cement forever the States into a homogeneous union of common interest and common aspirations. It

may be true, as once observed, that this instrument "had to lean awkwardly on the Farewell Address of Washington, the unrivaled common sense of Chief Justice Marshall and the colossal intellect of Daniel Webster, until in the fullness of time the sword of Ulysses S. Grant gave it a fixed relation to the course of human events." Yet it has survived all national vicissitudes, and today commands the reverence of all Americans. It is recognized by students of political institutions throughout the world as a priceless contribution to the cause of government. To have had a voice in its creation was, indeed, an enviable privilege.

The victory at Yorktown, which made possible the treaty of peace between the colonies and Great Britain, while assuring America of its political independence, nevertheless left the country in a state of chaos. The original Continental Congress had been called when a common danger threatened and when the need of a common defence presented itself. To this extent the colonists from Massachusetts to Georgia united their forces and consented, by mutual understanding, to prosecute the war under the title of the "United Colonies of America."

This Congress, however, had no inherent authority. It operated under no fixed grant of power. Its existence was based upon no other relationship than that tenatively agreed to for the specific purpose of carrying on war. Early in its career it boldly overruled all dissenters and issued its Declaration of Independence. This declaration was not even referred back to the colonies for formal acceptance. The very existence of war itself was token enough of its acceptance.

Finding itself impotent in enforcing its measures for raising an army, for the levy of taxes and for the furthering of the war, the Continental Congress, as soon as independence had been proclaimed, turned its attention to the formation of a closer union between the thirteen Commonwealths. Up to that time each State had regulated its domestic affairs, had decided what troops it would furnish the army and what contributions of money and supplies each would make.

A further complication arose when, immediately after the Declaration had been signed, the separate colonies, one after another, adopted constitutions, elected governors and legislatures and assumed the prerogatives of individual political units. This new status of the States in itself dissolved the "United Colo-

nies," though the Congress representing them remained the same and continued to administer in ineffective fashion the affairs of such union as still existed.

The agitation in Congress for a stronger central government resulted, in 1777, in the adoption of the Articles of Confederation. Committees had struggled for weeks to evolve a plan whereby all interests might at least be securely united pending the result of the war. The Articles were finally agreed upon as the nearest approach to a federal system then possible and, as soon as formally adopted, were referred to the individual States for ratification. Immediately, conflict arose. The States, many of them, refused to yield their sovereignty in any degree to the general government, as proposed. Others refused to cede their "Crown Lands," that is, their share of the Northwest Territory, to the Confederation. Maryland refused to ratify the Articles until these lands were so dedicated.

After a bitter struggle, however, resulting in compromises and mutual concessions, the Articles were ratified by all the States, and on March 1, 1781, became effective. Under this form of government the war was carried to a successful conclusion. Levies of men, money and supplies were granted by the States. The

authority of Congress was generally respected and, though the Articles were manifestly inadequate as a permanent institution, they made it possible for the States to concentrate their resources to the best advantage while the war lasted.

No sooner had peace come than the imperfections and impotency of the Confederation became apparent. The system established to meet an emergency could not endure, once the emergency was past. The Congress properly assumed the right to accept terms of peace with Great Britain, but it had no authority to solve the domestic problems that came in the wake of peace. That stronger measures were needed to prevent disintegration was granted on every hand.

This is the state of affairs that James McHenry and his comrades of the Revoltionary Army faced when they removed their ragged uniforms and returned again to peaceful pursuits. They foresaw the futility of all their heroism and hardships unless some permanent form of government could be devised that would weld all the States together into an indissoluble union. Otherwise, thirteen weak and helpless Commonwealths would spring up on this continent, upon which the greed of Europe might prey at will.

McHenry had served gallantly in the Continental army. He rushed to arms early in the war and, enlisting as a surgeon, he participated in the Battle of Long Island. He was captured by the British General Howe, but was later exchanged, and almost immediately joined the staff of General Washington. He is referred to in many histories as a member of Washington's "military family" and was, in fact, the General's secretary. It was during this period that McHenry and Colonel Alexander Hamilton, also attached to the staff of the Commander-in-chief, figured in the denouement of General Arnold, the traitor. Henry Cabot Lodge describes this incident in his "Life of Washington." General Washington, as will be recalled, had gone to Hartford to meet the French General Rochambeau. On his return he planned to stop at West Point to pay a call upon General Arnold. Lodge then says:

"He was accompanied by his own staff and by Knox and LaFayette, with their officers. * * * The company was pleasant and lively, the morning was fair, and as they approached Arnold's headquarters at the Robinson House, Washington turned off to the redoubts, telling the young men that as they were all in love with Mrs. Arnold, they would do well to go straight on and breakfast with her. Hamilton and McHenry followed his advice, and while they were at breakfast a note was brought to

Arnold. It was a letter of warning from Andre, announcing his capture, which Colonel Jameson had forwarded and who ought to have been cashiered for doing it. Arnold at once left the table, and, saying that he was going to West Point, jumped into his boat and was rowed rapidly down the river to the British man-of-war. Washington, on his arrival, was told that Arnold had gone to the fort, and after a hasty breakfast he went over there himself. On reaching West Point no salute broke the stillness and no guard turned out to meet him. He was astonished to learn that his arrival was unexpected and that Arnold had not been there for two days."

Later still, McHenry became an aide-de-camp to General Lafayette, having meanwhile been given a major's commission. His last military service was with the Fifth Pennsylvania Battalion. The war over, Major McHenry returned to Baltimore and was almost immediately hurried to Philadelphia as a delegate to the Continental Congress. He took his seat in that body in 1783 and remained a member until 1786.

It was about this time that McHenry became deeply impressed with the failure of the Confederation to meet the needs of the hour. Respect for the temporary Union could not be longer enforced. Its measures were accepted as law if it happened to please all parties to so accept them. If not, they were openly flouted and derided. It was not a matter of

rebellion or secession, but merely a general feeling that the plan of Confederation was a failure. McHenry shared in this view, and during the recesses of Congress he talked the facts over frankly with Martin, Hanson, Carroll, Chase and other leading Marylanders.

Meanwhile conflicts were arising between the States over their respective interests. This was particularly true of Maryland and Virginia. Congress, under the Confederation, had no power to step in and compose these differences. The only means of providing remedies was through conferences. Accordingly, the legislatures of Maryland and Virginia appointed commissioners in 1785 to form a compact for the regulation of navigation on the Potomac and Pocomoke Rivers and the Chesapeake Bay. These commissioners met first in Annapolis and then at Mount Vernon, but, finding that their powers were inadequate, they adjourned after preparing recommendations to their respective legislatures. Among other things, these recommendations dwelt to considerable extent upon the necessity of a tariff upon imports.

The Virginia legislature, taking the initiative in this matter, passed resolutions calling upon all the States to send commissioners to a convention in Annapolis "to take into consid-

eration the trade of the United States; to examine the relative situation and trade of the States; to consider how far a uniform system in their commercial relations might be necessary to their common interests and their permanent harmony and to report to the several States such an act relative to this great object as, when unanimously ratified by them, will enable the United States in Congress Assembled to provide the same."

The Annapolis Convention assembled in 1786, but only five States, viz., New York, New Jersey, Pennsylvania, Delaware and Virginia, sent delegates. No action was taken at this meeting beyond the preparation of a resolution to be presented to all the States and to Congress, calling upon the States to appoint commissioners "to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union, and to report such an act for the purpose to the United States in Congress Assembled, as, when agreed upon by them, and afterward confirmed by the legislature of every State, will effectively provide the same."

Virginia was again the first to move, and appointed delegates at once to meet commissioners for other States under the terms of this resolution. Congress received the report of the Annapolis Convention, but did not give it consideration until New York followed Virginia's lead by directing its delegation in Congress to submit a resolution providing for a Constitutional Convention. Early in 1787 Congress yielded to the pressure and passed the New York resolution, authorizing the assembling of a convention "for the purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union."

Maryland had held aloof from the Annapolis Convention because McHenry and other leading men of the time did not believe it would prove of value in meeting the disorganized condition in which the various States had found themselves. These strong men conceived it to be the duty of the States to draw a fundamental act that would effectively bind all the States together and which would, therefore, measurably supersede rather than sup-

plement the discredited Articles of Confederation. They therefore joined with enthusiasm in the plan for a Constitutional Convention.

Meanwhile McHenry had given up his seat in the Continental Congress, then officially known as the "United States of America in Congress Assembled." He had gone here to consult with his friends as to the gravity of the situation, and was tremendously relieved when he found that Congress had given in and had consented to a constitutional convention. He ably counselled the State legislature to send deputies to this convention, and when on May 26 the legislature moved in this direction it, by common consent, placed the name of James McHenry at the head of the list of delegates. The act of the legislature taking this momentous step has been preserved in the "Documentary History of the Constitution," compiled by the Department of State at Washington. This act is as follows:

"Be it enacted by the General Assembly of Maryland, That the Honorable James McHenry, Daniel of Saint Thomas Jenifer, Daniel Carroll, James Francis Mercer and Luther Martin, Esquires, be appointed and authorized on behalf of this State, to meet such deputies as may be appointed and authorized by any other of the United States to assemble in convention at Philadelphia for the purpose of

revising the Federal system, and to join with them in considering such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union and in reporting such an act for that purpose to the United States in Congress Assembled as, when agreed to by them, and duly confirmed by the several States, will effectually provide for the same, and the said deputies or such of them as shall attend the said convention shall have full power to represent this State, for the purpose aforesaid, and the said deputies are hereby directed to report the proceedings of said convention and any act agreed to therein to the next session of the General Assembly of this State."

The two ablest men in this delegation were McHenry and Martin. McHenry was not as profound a lawyer as was his colleague, but he had had wide experience in colonial affairs, in the army, and latterly in the Continental Congress. Moreover, he had as great a personal following in Maryland as any man in his day, and any constitution to which he might subscribe was guaranteed the support at home of a multitude of men whom no other leader in the State could influence. He hurried to Philadelphia shortly after the act of the legislature was passed. He took his seat in the convention on May 28, according to Madison's minutes, the same day as Oliver Ellsworth, Caleb Strong and Nathaniel Gorham, of Connecticut; Benjamin Franklin, Thomas Mifflin and Jared Ingersoll, of Penn-

sylvania, and Gunning Bedford, of Delaware. The convention had assembled for business on the second Monday in May and organized by the election of General George Washington President. Twelve States were represented. Rhode Island alone refused to send deputies. For four months this body deliberated upon a permanent Constitution. Its debates were profound. Its divisions were sharp. Again and again differences arose that threatened to wreck the whole fabric. Only the patriotic determination of the delegates, a determination to establish in America a strong central government, kept them time and again from abandoning their purpose.

Finally, after a series of compromises, a draft of the Constitution was agreed upon. The larger States conceded to the smaller equal representation in the Senate. The smaller conceded to the larger representation in the House upon a basis of population. The North granted the South the right to import slaves, and the South granted the demand of the North that an impost tax upon everything but slaves might be levied. The States' rights advocates yielded much, and the strong Federalists yielded much. From first to last the Constituion represents a spirit of accommodation and mutual concessions. It is the handi-

work of no delegate, or delegation or sectional interest. It is the work of all delegations and all sections.

Throughout the stormy period of travail, of apparently irreconcilable differences and of bitter argument marking this convention, McHenry and Martin stood out. They served on important committees. They engaged day by day in the heated debate and fathered proposal after proposal. McHenry's was the mind that developed many of the issues raised by the Maryland delegation. Martin's was the voice that presented and defended them. Together they urged preservation of the rights of the States; together they opposed any restriction upon the importation of slaves; together they stood against the unrestrained power of Congress to pass navigation laws, and together they proposed the assumption of State debts by the federal government.

When on September 17, however, the Constitution was finally voted upon, the Maryland delegation gave it almost unanimous indorsement. To do this they had to recede on many issues, but they felt that the welfare of the whole country would be better safeguarded by the instrument, as adopted, than by any other that could possibly command the support of the convention. All the Maryland deputies

except Martin, therefore, cheerfully joined in in an address to Congress urging the ratification of the act. The following is an interesting extract from this address:

"It is obviously impracticable in the federal government of these States, to secure the rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights that must be surrendered and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits and particular interests. In all our deliberations we kept steadily in view that which appears to us the greatest interest of every true American—the consolidation of our Union, in which is involved our prosperity, felicity, safety and perhaps our national existence. This important consideration, seriously and deeply impressed upon our minds, led each State in the convention to be less rigid on points of inferior magnitude than might have been otherwise expected. And thus the Constitution which we now present is the result of the spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable."

McHenry returned immediately to Annapolis and took up the fight for the ratification by his State of the new Constitution. On the first of April, 1788, the day fixed by the Gen-

eral Assembly for the State convention, that body assembled. Not until April 22, however, did the convention proceed to a vote. And in the minutes of that day there appeared this line: "Mr. James McHenry, a delegate, returned from Baltimore Town, appeared and took his seat in the Convention." Led by this Baltimorean and by Jenifer and Mercer, the convention overwhelmingly moved to ratify the Constitution. It had been adopted previously by Delaware, Pennsylvania, New Jersey, Georgia, Connecticut and Massachusetts, in the order named. After Maryland, came South Carolina, New Hampshire, Virginia, New York, North Carolina and Rhode Island. The vote of New Hampshire, the ninth State, put the act into operation.

At this period in his career James McHenry wished to retire to private life. He felt that his work had been accomplished; that he had given his share of time and devotion to the public service and that he should be permitted to return to his family and take up again his private interests. And for ten years this desire was gratified.

When, however, Henry Knox, who had been Washington's first Secretary of War, resigned, near the close of the second administration, to be succeeded for a few months by

Timothy Pickering, the President sent for McHenry. Washington and McHenry had been devoted personal friends and comrades through the Revolutionary War. They had served together in the Constitutional Convention and had been repeatedly in each other's company following the ratification of the Constitution. When, therefore, the first President needed a new Secretary of War to relieve Pickering, he turned naturally to the Marylander. On January 29, 1796, McHenry assumed the oath of office and again entered Washington's official family. When Adams became President he urged McHenry to remain in the Cabinet.

The close of McHenry's official career was unhappy. President Adams, who had been from the beginning ambitious to succeed himself, had become distrustful of more than one member of his Cabinet. He suspected McHenry and Pickering of intriguing with Hamilton against the administration of which they were a part. Early in May, 1800, Adams began "house cleaning" by demanding McHenry's resignation. This was followed with a similar demand for that of Pickering. Of this incident one writer has said that "Adams stormed violently at McHenry upon asking his removal, as though irritated over some

revelation concerning which Adams was extremely sensitive. But McHenry had amiable qualities, and the President regretted afterwards having displayed so much rudeness in removing him." All this the Marylander bore with calm dignity and, after bidding adieu to his Cabinet associates, he quietly withdrew, surrendering his porfolio on June 1, 1800.

For years after Washington returned to the shades of private life McHenry remained his confidante and friend. Shortly after the first President reached Mount Vernon, for instance, we find him writing the following to his old aide and adviser:

"I find myself in the situation nearly of a beginner; for, although I have not houses to build (except one, which I must erect for the accommodation and security of my military, civil and private papers, which are voluminous and may be interesting), yet I have scarcely anything else about me that does not require considerable repairs. In a word, I am already surrounded by joiners, masons and painters; and such is my anxiety to get out of their hands that I have scarcely a room to put a friend into or to sit myself without the music of hammers or the odoriferous scent of paint."

Again, a little later, he wrote to McHenry:

"You are at the source of information and can find many things to relate, while I have nothing to say that would either inform or amuse a Secretary of War at Philadelphia."

Yet again this was penned to the Marylander:

"As no mode is yet adopted by President Adams by which the battalion officers are to be appointed, and as I think I stand on very precarious ground in my relation to him, I am not overzealous in taking unauthorized steps when those that I thought were authorized are not likely to meet with much respect."

James McHenry, stout-hearted patriot, brave soldier and able lawmaker, lived until 1816. He lived to see his country engaged again in war with Great Britain. He lived to see another English army invade his country, burn its capital and threaten his own city with destruction. Happily, however, he lived to see the frowning old fortress in Baltimore harbor, a fort that bore his name then and bears it today, belch forth the shot and shell that turned the invaders back and rid Maryland's shores forever of the "tyrant's heel."

LUTHER MARTIN

1748—1826

From the very beginning of our life as a nation, Maryland has enjoyed rare distinction as a producer of great lawyers and profound jurists, a distinction worthily gained in the first half of the last century and just as worthily maintained ever since.

Other States may have given to the republic a longer line of diplomatists, of statesmen and of executives, eminent or even pre-eminent in their day. As a matter of fact, many have. Yet none can lay claim to a bar outranking that of Maryland in brains, in ability and in learning, particularly from the time of the convention that framed the Federal Constitution until the beginning of the Civil War.

During those six decades there lived and flourished a celebrated group of Maryland lawyers, a group now recognized far and wide as powerful factors in the history of that eventful period. For instance, Robert H. Harrison, Thomas Johnson, Samuel Chase, Gabriel Duvall and Roger B. Taney, members of the Maryland bar, sat upon the Supreme Court of the United States; Robert

Smith, William Pinkney, William Wirt, Roger B. Taney, John Nelson, and Reverdy Johnson were Attorney-Generals in as many Cabinets, while Philip Barton Key, John Thompson Mason, Charles Lee, William H. Winder, Robert Goodloe Harper, Jonathan Meredith, John Johnson, Arthur Scharf, James Winchester and a host of others were brilliant stars in the State's legal firmament.

In Luther Martin, however, Maryland presented to the country a figure as picturesque and a lawyer as accomplished as any who ever practiced before an American court. He was not as cultured as Wirt or Pinkney, nor as balanced as Chase or Taney, nor even as polished as Reverdy Johnson, yet he had a mind as finely trained and a grasp of the law as sweeping as had any practitioner at the bar of his State, whether before him or after him.

And it was as a lawyer and nothing else that Luther Martin achieved towering fame. He held a few political offices, it is true, but all of them were in line with his profession. For twenty-nine years he was Attorney-General of his State, and for a very brief period he was Chief Justice of the Court of Oyer and Terminer. Add to that a brief service in the Continental Congress, and another brief service as a Maryland delegate in the Constitu-

tional Convention, and the whole story of Martin's career as a public official is told.

He left no record of note in the Continental Congress, but his course in the Constitutional Convention gave him a station among the strongest men in that body. His determined championship of the States' rights cause, ending in the utter defeat, under his leadership, of the Virginia or Randolph plan for the federal union, introduced him as a national character and gave him identity from end to end of the country.

Martin's chief place in American history, however, rests upon his appearance in two of the most dramatic legal battles ever waged upon this continent. He was chief counsel for the respondent in the impeachment of Samuel Chase, Associate Justice of the Supreme Court of the United States, and was the ablest defender of Aaron Burr when the former Vice-President was arraigned at Richmond, Va., on the charge of high treason. And in each of these cases this Marylander triumphed, though opposed by an array of legal talent as formidable as was ever assembled before a court of justice in this or any other country.

Luther Martin's early life was as humble and unpromising as was that of any American

youth ever sent forth from the parental roof without patrimony, without influential friends and without prospects. He was born in Brunswick, N. J., in 1744, was graduated from Princeton College in 1766, and was then ushered out into the world to make of himself whatever he might. He taught school for a while in Queenstown, Md., studied law, and was admitted to the bar at Williamsburg, Va., in 1771. Thereafter he returned to the Eastern Shore of Maryland, and his successes in court were so pronounced that in 1778 he was appointed Attorney-General of the State. A few years later he was temporarily relieved of his duties that he might participate in the formation of a perpetual union of all the States.

Martin had already attended two sessions of the Continental Congress, then operating under the Articles of Confederation, and had become fixed in his conviction that the unstable form of government then in effect must be supplanted by a stronger union, else the whole confederacy would collapse. But as a member of the Constitutional Convention he stood like a Gibraltar against any scheme of federalism that tended to swallow up the smaller States or that would in any degree deprive any of them of their sovereignty. His superb fight against the Virginian proposal, a proposal

which he conceived to be in direct opposition to the rights of the States, is most interestingly told by Judge Ashley M. Gould in his "Sketch of Luther Martin." In this Judge Gould says:

"In the Constitutional Convention, Martin belonged pre-eminently to the class of excellent critics, and from the ninth day of June, when he presented his credentials, up to the day when he went back to Maryland vowing that he would have nothing more to do with such high-handed proceedings, his position was one of able and aggresive opposition to any scheme which had for its object the establishment of a highly centralized and puissant national government. He was the representative of one of the smaller States, and with quick precision saw the baleful results to those States which would follow the adoption of what history knows as the Virginia plan, introduced by Edmond Randolph, the Governor of the State. It will hardly be contended, at this time, by the most ardent advocate of a centralized and powerful national government, that the Virginia plan, with its practical elimination of the smaller States from the exercise of federal power, its provision for setting aside by the national legislature of such State laws as it might deem unconstitutional, and its executive to be chosen by the same national legislature, would have stood the test of time; indeed, that it would have endured longer than that "rope of sand," the Confederation. And, yet one who studies even the brief and practically surreptitious journals of that convention must conclude that the present Constitution would never have been evolved from its labors, had it not been for the leadership of Luther Martin, aided by Yates and

Lansing, of New York, in opposition to the scheme of Edmond Randolph, backed, as it was, by the Father of the Country himself."

It was this victory, monumental in its consequences, that marked Luther Martin as a fighter of the highest order. Moreover, it brought home to all Marylanders the fact that they had among them a leader in whom they might safely entrust their fortunes as a State. No political office in the gift of the Commonwealth was beyond Martin at that time, yet there was not one that tempted him for one fleeting moment. Every ambition for glory, every aspiration for power within his breast centered about his profession, and that alone. He resumed his duties as Attorney-General, engaging all the while in a wide and lucrative private practice. Nothing then or thereafter could lure him away from the law.

While in the Continental Congress, Luther Martin had as a colleague from Maryland Samuel Chase, one of the foremost lawyers of his time. When the Maryland convention was called to ratify the Constitution, Martin and Chase were again associated, first as delegates, then as opponents to that ratification. Seven years afterward these two men were the leading figures, one as the accused and the other as his counsel, in the greatest of the early im-

peachment proceedings under the Constitution of the United States.

Chase had, in the meantime, been appointed an Associate Justice of the Federal Supreme Court by President Washington. He had in earlier days been a bitter anti-Federalist, and as such had joined with Martin in condemning the Constitution. As a judge, however, Chase was now under popular indictment as an uncompromising Federalist, and as a stanch believer in the jurisdiction of the judiciary over the legislative and executive departments of the federal government. Supporting this indictment was the administration of Thomas Jefferson, led by the President himself.

This strong current of hostility to Judge Chase, intensified by the Federalist leaning of the whole Supreme Court, resulted in 1805 in a motion in the House of Representatives for the impeachment of the Marylander. The specific grievance was a charge delivered by the Associate Justice to a grand jury in Baltimore, in which he bitterly arraigned the administration of Jefferson.

No sooner had the House adopted the impeachment resolution than Luther Martin volunteered his services to his old friend, Chase. Martin had twenty years before re-

ceived his appointment as Attorney-General at the hands of Chase. He had tried thousands of cases before the Justice when the latter sat on the Maryland bench, and had been associated politically with the accused from the beginning of his career. Moreover, Martin was an inveterate hater of Jefferson, just as Jefferson was the implacable foe of Chase. Therefore, the Maryland lawyer entered the impeachment case with the keenest enthusiasm.

The trial of the Associate Justice took place in the old Senate Chamber, the Senators assuming the oath as jurors, and Vice-President Aaron Burr sitting as the presiding judge. The entire membership of the House of Representatives attended in a body and were flanked by members of the Cabinet and by the Diplomatic Corps. The chief manager of the impeachment on the part of the House was John Randolph of Roanoke, and though but thirty-one years of age, he was the acknowledged leader of that body. Opposite Randolph sat Luther Martin, chief counsel for the accused, whom Professor Adams, in his "Life of Randolph," described as the "most formidable of American advocates, the rollicking, witty, audacious Attorney-General of Maryland, boon companion of Chase and the whole bar;

drunken, generous, slovenly, grand; bulldog of Federalism, as Mr. Jefferson called him; shouting with schoolboy's fun at the idea of tearing Randolph's indictment to pieces and teaching the Virginia Democrats some law."

As the famous trial closed, Luther Martin delivered his argument to the Senate, an argument that acquitted Chase and invited the enthusiastic plaudits of the whole country. This speech occupied almost two days in delivery, and was perhaps the crowning effort of Martin's career. Of it Professor Adams says:

> "If any student of American history, curious to test the relative value of reputations, will read Randolph's opening address, and then pass on to the argument of Luther Martin, he will feel the distance between show and strength, between intellectual brightness and intellectual power. Nothing can be finer in its way than Martin's famous speech. Its rugged and sustained force; its strong humor, audacity and dexterity; its even flow and simple choice of language, free from rhetoric and affectations; its close and compulsive grip of the law; its good-natured contempt for the obstacles put in its way—all these signs of elemental vigor were like the forces of nature—simple, direct, fresh as winds and ocean."

Justice Chase, it is now agreed, owed his acquittal to the effort of Luther Martin in his behalf. And the jurist never ceased to be grateful for the service. It is related, for instance, in the American Law Review, pub-

lished in 1866, that some time after the impeachment, Martin appeared before the district judge then sitting at Baltimore in a case with Justice Chase. On this occasion Martin, obviously drunk, assumed an insolent bearing towards the court that became intolerable. The district judge drew up a commitment for contempt and passed it to Chase for the latter's signature. Chase, after taking up the pen, threw it down, declaring: "Whatever may be my duties as a judge, Samuel Chase can never sign a commitment against Luther Martin."

Two years after the failure of the Jefferson administration to impeach Justice Chase the most memorable criminal trial in American history was staged at Richmond, Va., when Aaron Burr, late Vice-President, was indicted for high treason in levying war against the United States, and for a misdemeanor in organizing a military expedition against Mexico, a country with which we were then at peace. It was the same Burr who had presided over the impeachment of Chase "with the dignity and impartiality of an angel, but with the rigor of a devil," regardless of the fact that he was even at that time a fugitive from justice for killing Alexander Hamilton.

The late Vice-President, "bankrupt in fortune and in political standing," moved mysteriously into the West after his retirement from office and immediately engaged in a conspiracy for the founding of a great empire in Mexico, himself the fancied Napoleon and his name to be the beginning of an American dynasty. To accomplish this Burr planned the capture of New Orleans and possibly the detachment of the Western States from the Union. It was an ambitious and fascinating dream, and as the arch-conspirator unfolded it to his confidantes he won many of them to his cause. Jonathan Dayton was drawn into it, as was Daniel Clark, General Wilkinson, a former military comrade, and Blennerhassett, an Irish gentleman who had acquired an island in the Ohio River, where he had built a palatial home.

And for a time the conspiracy developed ominously. It had appealed to hundreds of restless men west of the Alleghanies. Many yielded to it for a time without realizing the designs of Burr. "The panorama of the great West was fairly unrolled, and in the adventurous, self-confident sons of the valley, heedless of restraints, but in heart true to the republic, despising diplomacy and ready to take the short cut, we perceive a fresh and distinc-

tive type of American citizen. Over this section Burr's spell was momentarily cast, but his magic failed when the sinister bend of his plans were discovered."

At the crucial moment Wilkinson, to whom Burr had entrusted all his plans, turned against the would-be emperor and, by carefully anticipating every move, he arranged to crush the expedition at New Orleans before it was fairly under way. Martial law was declared at that port and the lines were carefully drawn about the followers of Burr, who had assembled on Blennerhassett's island for the final dash for the West.

Meanwhile, President Jefferson was on his guard. Rumors had reached Washington even before Wilkinson could confide to the administration that treason against the United States was at the bottom of Burr's activities. Without delay Jefferson issued a proclamation denouncing the conspirators and setting the machinery of the government in motion to prevent the departure of the expedition and to capture Burr and any of his followers who could be apprehended. Burr, while at Natchez awaiting his "army" from the Ohio, was informed of Wilkinson's desertion. Abandoning the campaign, he fled precipitately into the interior. He was a few months later ar-

rested in a little village on the Tombigbee and sent, under military guard, to Richmond jail. Blennerhassett was taken prisoner shortly afterward in Kentucky and also taken to Richmond.

On May 22, 1807, Aaron Burr was placed on trial, charged with the most serious crime a nation may make against a citizen. John Marshall, Chief Justice of the Supreme Court of the United States, presided, while beside him sat Cyrus Griffin, judge of the United States District Court of Virginia. The little courtroom was crowded to the doors. Ranged opposite each other at the bar were the eminent counsel for the government and for the prisoner.

And a dramatic circumstance of that melodramatic situation was the fact that, facing each other at that trial table, sat Luther Martin and William Wirt, two of the greatest Marylanders who ever addressed a jury. Martin was there as the defender of Aaron Burr, the ablest by far of all the prisoner's counsel. Wirt appeared as the prosecutor of traitors who had sought to undermine the very foundations of the republic. Before that legal battle was concluded these two men had achieved a renown that echoed throughout the civilized world.

In no material respect were these two Marylanders alike. Martin was many years older than his rival. He was bold, fearless, contemptuous, determined. His blows were delivered with the force of a sledgehammer. At times he was the embodiment of cold, merciless logic. Then he would brush aside obstacles with no attempt at reasoning, and gain by sheer audacity what he might not have attained by milder processes. He was at all times overbearing, and often brutal in his rejoinders.

Wirt, on the other hand, was fluent and fiery. His shafts had the keenness of a rapier rather than the smashing effect of a battle ax. His appeal was more human, more vivid, more sympathetic than the argument of his opponent. At times his eloquence was overpowering, though he obviously tried to repress his impassioned impulses and restrain his fertile imagination as he charged and countered the defence. Wirt's brilliant effort in this case still holds a place among the oratorical classics of American court procedure, though it did not at the time have the weight that marked the less spectacular argument of Martin.

In addition to Wirt, there were on the side of the government Attorney-General Rodney,

George Hay, a close personal friend of Jefferson, and Alexander McRae, Lieutenant-Governor of Virginia, and one of the most successful lawyers in the State. Flanking Martin on the other side were Edmond Randolph, Attorney-General and Secretary of State in Washington's Cabinet; John Wickham, of the Richmond bar; Benjamin Botts, Charles Lee and Jack Baker. There was, too, back of the prosecution the whole weight of the Jefferson administration.

The trial was long and bitterly conducted. The usual amenities were absent. Counsel thundered at each other daily and almost hourly. Repeatedly the Chief Justice was forced to admonish the lawyers against personalities and unbecoming asperity, but the opposing legal batteries would only momentarily cease their fire. And the feeling shown, particularly by the defence, was strongly intensified by the attitude of the President. Jefferson had long hated Martin, but no longer than Martin had hated Jefferson, and many of Martin's thrusts had a higher target than the government's lawyers in the case. One of the Marylander's most vehement outbursts came in connection with a subpœna which he asked the Court to issue for the President, who had in his possession letters and other papers of

value to the defence. In arguing his motion Martin said:

"All that we want is the copies of some papers and the original of another. This is a peculiar case, sir. The President has undertaken to prejudge my client by declaring 'of his guilt there can be no doubt.' He has assumed the knowledge of the Supreme Being himself, and pretended to search the heart of my highly respected friend. He has proclaimed him a traitor in the face of that country which has rewarded him. He has let slip the dogs of war, the hell-hounds of persecution, to hunt down my friend. And would this President of the United States, who has raised all this absurd clamor, pretend to keep back the papers which are wanted for this trial, where life itself is at stake? It is a sacred principle, that in all such cases, the accused has the right to all the evidence necessary for his defense."

It was this savage arraignment, followed by the ruling of Chief Justice Marshall to the effect that the President is not absolved from the obligations of citizenship and was, therefore, subject to subpœna, that aroused Jefferson's rage and brought forth his famous letter to his prosecutor, Hay. In this the President said:

"The leading feature of the Constitution is the independence of the Legislative, Executive and Judiciary of each other; and none are more jealous of this than the judiciary. But would the Executive be independent of the Judiciary if he were subject to the commands of the latter, and to imprisonment for disobedience; if the smaller courts could bandy him

from pilliar to post, keep him constantly trudging from north to south and east to west, and withdraw him entirely from his duties?"

The one great issue in the Burr trial was, however, the interpretation of that clause of the Constitution which declares that "Treason against the United States shall consist only in levying war against them," and "That no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court." The prosecution failed to produce testimony that Burr had committed any such overt act, and the Chief Justice, in his charge to the jury, virtually instructed them to bring in a verdict of not guilty. The misdemeanor charge was likewise disposed of by a verdict to the same effect, and the Burr trial, the most noteworthy in our criminal annals, came to an end.

In this, as in the Chase impeachment, Luther Martin, upon whom rested the burden of the defence, was signally victorious. His successive triumphs in these two all-absorbing trials gave him a standing at the American bar enjoyed by but few great lawyers in our history. He figured, however, in but one other lawsuit of nation-wide importance. This was the celebrated case of McCulloch vs. Maryland, involving the right of Congress to in-

corporate a national bank. Martin appeared for the State, along with Hopkinson and Walter Jones. Opposing him were Daniel Webster, William Wirt and William Pinkney. Martin lost his case, probably because he was arguing against that Federalism for which he had stood for a decade. He had been one of the original States' rights leaders in the early days, had then gone bodily over to the Federalists and, in this litigation, had returned once more to the faith of his youth.

Martin's private life was in disappointing contrast to his standing as a great advocate. No excuse can be offered for his drunkenness, a habit that pursued him through life. Withal, he was a man of wonderful success in his profession, and the fact was recognized throughout the whole nation. His high station among the members of the bar is illustrated by one of the quaintest legislative acts ever placed upon the statute books of a State. In 1822, after Martin had been stricken with paralysis and incapacitated for business, the General Assembly of Maryland passed the following resolution:

"*Resolved,* That each and every practitioner of law in the State, shall be, and is hereby compelled, from and after the passage of this resolution, to obtain from the clerk of the county court in which he

may practice, a license to authorize him to so practice, for which he shall pay annually on or before the first day of June, the sum of five dollars, which said sum is to be deposited by the clerk of the county court, from which he may procure said license, in the treasury of the Western or Eastern shore, as the case may be, subject to the order of Thomas Kell and William H. Winder, Esquires, who are hereby appointed trustees for the appropriation of the proceeds raised by the virtue of this resolution, to the use of Luther Martin; PROVIDED, That nothing herein contained shall be taken to compel a practitioner of law to obtain a license in more than one Court, to be annually renewed under penalty of being suspended at the bar at which he may practice. AND PROVIDED, That this resolution shall cease to be valid at the death of the said Luther Martin."

Martin was now a physical and mental wreck. "His vast learning was hidden in the oblivious darkness of an extinguished intellect." Through excessive drinking his fortune had been wasted away. Broken in health and penniless, this great Marylander was prevented from becoming a public charge by Aaron Burr, the man whom Martin had probably saved from the hangman's gallows. Of this charity Chief Justice Taney, in his autobiography, says "The only good thing I know of Colonel Burr is that, soon after this happened, he took Mr. Martin to his house and provided for his wants, taking care of him until his death."

SAMUEL CHASE

1741—1811

During all our history the power of impeachment for "treason, bribery, or other high crimes and misdemeanors," lodged in Congress by Article 2, Section 4, of the Federal Constitution has been invoked only nine times, a circumstance which is its own tribute to the integrity of our public officials.

And this tribute is more pronounced when the fact is recalled that, in the nine impeachment proceedings, only three of the accused officials were convicted. One President, one Cabinet officer, one Senator and six judges have been arraigned before the Senate, charged by the House of Representatives with malfeasance or maladministration in office, and verdicts of acquittal were found in all instances, except the cases of three judges.

The most famous trial in this category was, of course, that of Andrew Johnson, President of the United States, who was haled before the bar of the Senate in 1868 to answer a series of charges involving ursurpation of power by the Executive. He escaped removal from office by the narrow margin of

one vote, 34 Senators moving for conviction and 16 for acquittal. In all impeachments a two-thirds vote is necessary to establish the guilt of the accused.

First in the list of impeachment proceedings was that against William Blount in the year 1798. He was a Senator from Tennessee. A suspicious letter from him to an Indian Agent fell into the hands of President Adams and was communicated to Congress. It indicated that a conspiracy was formed with representatives of the British government to alienate the Indians from their allegiance to this country, with the ultimate view of wresting Florida and Louisiana from Spain. Blount was first suspended from office, and before his case was determined he was formally expelled from the Senate. The Senatorial court then dismissed the impeachment, on the ground that it had no jurisdiction, inasmuch as a Senator is not an officer of the government and therefore not amenable to such a proceeding.

The earliest conviction by an impeachment court was in the case of John Pickering, United States Judge for the New Hampshire District, who in 1803 was charged with corruptly releasing a libelled vessel without requiring bond, of using indecent language, and of being drunk while on the bench. He was

found guilty upon all counts by a vote of 20 to 6.

In 1830 James H. Peck, judge of the District Court of Missouri, was acquitted on various charges growing out of the turbulent politics of the day in that State, the vote being 21 for conviction and 22 against. West H. Humphreys, federal judge of Tennessee, was found guilty in 1862 by unanimous vote of the Senate, of upholding the right of secession and of inciting rebellion, in the course of a public speech delivered at Nashville.

The impeachment of William W. Belknap, Secretary of War, failed in 1876, when 25 Senators out of 62 voted for acquittal. The vote in the case of Charles Swayne, judge of the Northern District of Florida, who was tried in 1904, was 35 for conviction and 47 against. In the latest of the impeachment proceedings, however, that of Robert W. Archbald, judge of the Circuit Court of Pennsylvania, the Senate removed him from the bench without the formality of a roll call.

By far the most celebrated impeachment, involving a federal jurist, was the trial of Samuel Chase, of Maryland, Associate Justice of the United States Supreme Court. This proceeding was staged in 1804 and because of the grave political issues raised, it had a significant

bearing upon the early history of the republic. Chase had been a member of the Continental Congress and was a signer of the Declaration of Independence. In the division of the people into parties he had become an aggressive Federalist, just as he had been a determined Whig in the struggle with Great Britain. He did not abandon his political convictions when President Washington appointed him to the Supreme Court. The Jeffersonians found him so stubborn an obstacle to their policies that the impeachment was resorted to in the hope of removing him from his position of power.

Chase had a contemporary part in the early annals of Maryland, as a colony and as a State, with such figures as Hanson, Carroll, Jenifer, Martin, McHenry and Samuel Smith. He settled in Annapolis in 1760, after having been admitted to the bar, and three years later was elected a member of the Colonial Assembly. He distinguished himself in that body by his obstinate opposition to the royal governor and to the court party, voting on one occasion to cut the salary of his father, a clergyman, in half.

He was conspicuous, too, in the riots of 1774, following the passage of the Stamp Act by

Parliament. He joined the Sons of Freedom and took part in forcing entrance to the public offices, destroying the stamps and burning the collector in effigy. In 1775 he anticipated the Declaration of Independence by declaring in a public speech "that, by the God of Heaven, I owe no allegiance to the King of Great Britain."

Chase was elected a delegate from his colony to the first Continental Congress. He was immediately appointed a member of the Commission to Canada, with Franklin and Charles Carroll. When he returned from the Dominion, after a fruitless effort to win that section to the cause of independence, he found Maryland still reluctant to unite with the other colonies in breaking from England. He took the stump and prosecuted a vigorous campaign in the counties for freedom. He denounced Dr. Zulby, the treacherous delegate from Georgia, and, driving that Tory out of the State, secured a vote of the Colonial Convention for an immediate separation from the mother country.

Hurrying post-haste to Philadelphia, Chase arrived in time to sign the Declaration, along with other Marylanders. He prepared an address in 1778, published by Congress and ordered to be read in all the churches, to coun-

teract the report of conciliatory bills about to be passed by Parliament. In 1785 he boldly went to England to collect moneys belonging to Maryland, amounting in all to $650,000.

Shortly after peace was declared, Chase removed from Annapolis to Baltimore, and in 1788 was named as the presiding judge of the new criminal court, having jurisdiction over the city and county. Three years later he became chief justice of the general court of the State. His austerity and audacity as a judge is one of the traditions of the court history of Maryland. His boldness was characteristically displayed when, in 1794, he ordered the arrest of two popular ringleaders of a riot. The sheriff hesitated to execute the warrant, whereupon Judge Chase descended from the bench, offering to serve himself as *posse comitatus* if nobody else could be found to apprehend the criminals. This he did, though warned that his life and property would be endangered. A little later he was presented by a grand jury, charged with holding a place in two courts at the same time. Calling the jurymen before him, he severely arraigned them, ordering that they confine their activities to their proper sphere.

In 1796 Judge Chase was elevated to the Supreme Bench of the United States by Presi-

dent Washington. The first few years of his service on that court were uneventful. Only one of his decisions at this period was noteworthy. A long, bitter contest had been waged from the beginning of the government over the question of Congress' right to levy internal duties or excise taxes. The Constitution had apparently intended that both the States and the federal government should have this same right, yet the first levies by Congress on liquors and other articles were exceedingly unpopular, causing, among other things, the Pennsylvania whiskey insurrection.

A few months after Chase went upon the Supreme Bench a case reached that court making a test of the constitutionality of the excises imposed by Congress. One Daniel Lawrence Hylton, of Virginia, had resisted the payment of the tax, and by successive stages the litigation reached the highest tribunal. It was of such widespread interest and importance that many of the leading lawyers of the day took sides in the argument. Alexander Hamilton and Attorney-General Charles Lee appeared for the government. District Attorney Campbell, of Virginia, and Attorney-General Ingersoll, of Pennsylvania, represented the plaintiff. Associate Justice Chase delivered the opinion of the Court,

holding that the excise tax could be constitutionally levied by the federal government. This decision has, since that time, rendered it possible for the government to raise hundreds of millions of dollars "internal revenue" upon liquors, tobacco, wines, beer and many other articles of domestic manufacture.

In politics Chase had originally been strongly anti-Federalist. He joined with Luther Martin in opposing the ratification by Maryland of the Federal Constitution. He took the ground that the new organic act tended too strongly toward the absorption of the States. After the Constitution had become effective and the State government had been reorganized, he continued as the leader of the States' rights forces in Maryland until about the time he went upon the Supreme Court.

In the contest between Jefferson and Adams, however, Chase completely reversed himself upon national issues and became one of the most ardent exponents of Federalism. This was particularly true in so far as the independence of the federal judiciary was concerned. And, instead of retiring from the forum when raised to the bench, Chase continued his outspoken adherence to the Federalist principles. Nor can it be doubted that his judicial acts

were in many instances tainted with a political coloring.

About this time President Jefferson, the absolute dictator of the dominant party, began to show marked evidence of impatience at the jurisdiction the judiciary assumed over the legislative and executive departments of the government. This dissatisfaction became most pronounced when, in 1803, Chief Justice Marshall delivered the unanimous opinion of the Supreme Court in the case of Marbury vs. Madison, in which the court refused to apply an act of Congress conferring on them the power to issue a mandamus to the Secretary of State. The Court found this act unconstitutional, but, after handing down the opinion, the Chief Justice boldly lectured the administration upon the President's duty to issue a commission to the plaintiff.

This lecture was bitterly resented by Jefferson, who referred to it as "an obiter dissertation of the Chief Justice and a perversion of the law." In the same year John Pickering was removed from office by impeachment, after a trial which had been instigated wholly by the administration leaders. This proceeding has been denounced as "arbitrary, illegal and infamous," yet it emboldened the Jefferson followers and persuaded them that the

Supreme Court itself might be measurably chastened by a similar ordeal. The attitude of the administration at this time toward the functions of the judiciary might be clearly indicated by the remarks of Senator William B. Giles, of Virginia, a Jefferson leader. The declaration of the Virginian is reported by John Quincy Adams in his memoirs, as follows:

"In the course of a conversation, Giles treated with the utmost contempt the idea of an independent judiciary. He said there was not a word about such independence in the Constitution, and that their pretentions to it were nothing more or less than an attempt to establish an aristocratic despotism in themselves. The power of impeachment was given without limitation to the House of Representatives; the power of trying impeachments was given equally without limitation to the Senate; and if the judges of the Supreme Court should dare, as they had done, to declare an Act of Congress unconstitutional, or to send a mandamus to the Secretary of State, as they had done, it was the undoubted right of the House to impeach them, and of the State to remove them, for giving such opinions, however honest or sincere they may have been in entertaining them. A removal by impeachment was nothing more or less than a declaration by Congress to the effect: You hold dangerous opinions, and if you are suffered to carry them into effect you will work the destruction of the nation. We want your offices for the purpose of giving them to men who will fill them better."

As a result of this state of mind on the part of the majority party, Justice Chase easily became a target for the assaults of the Republicans. He was an overbearing man and a candid partisan, though his great ability, his absolute integrity and fearlessness as a patriot could not be questioned. Moreover, he had sat in the Circuit Court of Pennsylvania during the trial of one Fries, charged with treason in the whiskey rebellion, and of Callender, a Republican editor indicted under the Sedition Act. The latter was charged with having libelled President Adams. In each of these cases the Associate Justice had been betrayed, as was alleged, into the use of violent language from the bench. A little later Chase, in delivering a charge to the grand jury in Baltimore, severely arraigned the Jefferson administration. This incident was the immediate cause of the impeachment which followed.

At this period the minds of the people were still centered upon the impeachment of Warren Hastings by the House of Lords and by the judgment rendered in that case. That trial, coupled with the success of the administration in removing Judge Pickering, incited the Jefferson leaders to the most vigorous efforts against Chase. The President himself took the lead, when in a letter to Representa-

tive Joseph Nicholson, of Maryland, who had managed the impeachment of Judge Pickerson, he said:

"You must have heard of the extraordinary charge of Chase to the Grand Jury at Baltimore. Ought this seditious and official attack on the principles of our Constitution and on the proceeding of a State to go unpunished? And to whom so pointedly as yourself will the public look for the necessary measures? I ask these questions for your consideration. As for myself, it is better that I should not interfere."

Nicholson, however, did not take the initiative. John Randolph of Roanoke, the floor leader of the administration, offered the resolution, which was adopted in the House by an overwhelming vote. On November 30, 1804, the House formally presented its resolution to the Senate, and on December 14 the Senate, on motion, ordered "that when the managers of the impeachment shall be introduced to the bar of the Senate and shall have signified that they are ready to exhibit articles of impeachment against Samuel Chase, the President of the Senate shall direct the Sergeant-at-Arms to make proclamation in the following words: "All persons are commanded to keep silence, on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States articles of impeachment

against Samuel Chase, one of the Associate Justices of the Supreme Court of the United States."

The managers for the House were Representatives Randolph, Rodney, Nicholson, Early, Boyle, Nelson and Campbell. Randolph was chairman and the spokesman of administration forces. Chase was defended by Luther Martin, whose individual part in the trial is referred to in detail in the preceding chapter; former Attorney-General Charles Lee, Joseph Hopkinson and Philip Barton Key. No abler array of legal talent than that ranged in opposing columns at the opening of this trial could have been assembled in America at that period.

Aaron Burr, then Vice-President of the United States, presided over this trial, and to his love of the spectacular was no doubt due the arrangement of the Senate chamber during the solemn proceedings. On the right and on the left of the presiding officer's chair were placed two rows of benches, which were covered with crimson cloth. On these benches the Senators, acting as judges, sat.

Before the jurymen a temporary semi-circular gallery was raised. This was elevated on pillars and was covered wholly by cloth of brilliant green. To this section the women, who

attended in throngs, were ushered. Under this improvised gallery were three rows of benches, one rising slightly above the other. These were also covered by green and were reserved for the members of the House of Representatives, members of the Diplomatic Corps and heads of the executive departments.

Immediately in front of this amphitheatre and facing the right and left of the Vice-President were two boxes covered with blue cloth. One of them was occupied by the managers on the part of the House, and the other by the accused and his counsel. Never was a trial by impeachment or otherwise on this democratic continent more elaborately staged or more dramatically conducted.

The Senators who sat as jurors in this trial were James Hillhouse and Uriah Tracy, of Connecticut; James A. Bayard and Samuel White, of Delaware; Abraham Baldwin and James Jackson, of Georgia; John Brown and John Breckinridge, of Kentucky; Robert Wright and Samuel Smith, of Maryland; Timothy Pickering and John Quincy Adams, of Massachusetts; Simeon Olcott and William Plumer, of New Hampshire; Jonathan Dayton and John Condit, of New Jersey; John Smith and Samuel L. Mitchell, of New York; Jesse Franklin and David Stone, of North

Carolina; John Smith and Thomas Worthington, of Ohio; George Logan and Samuel Maclay, of Pennsylvania; Christopher Ellery and Samuel J. Potter, of Rhode Island; Thomas Sumter and Pierce Butler, of South Carolina; Joseph Anderson and William Cocke, of Tennessee; Stephen R. Bradley and Israel Smith, of Vermont, and William B. Giles and Wilson C. Nicholson, of Virginia.

Eight articles were contained in the impeachment charge against the Maryland jurist. They reviewed the judicial conduct of the accused in a number of cases, beginning with the prosecution of Fries and extending over a period of eight years. The article, however, upon which the prosecution based its strongest hope and that intended to show most pointedly the political bias of the jurist, was the eighth and last. It was as follows:

"And whereas mutual respect and confidence between the government of the United States and those of the individual States and between the people and those governments, respectively, are highly conducive to that public harmony without which there can be no public happiness, yet the said Samuel Chase, disregarding the duties and dignity of his judicial character, did at a Circuit Court, for the District of Maryland, held at Baltimore in the month of May, 1805, pervert his official right and duty to address the Grand Jury then and there assembled on the matters coming within the province of the Grand

Jury, for the purpose of delivering to the said Grand Jury an intemperate and inflammatory political harangue, with intent to excite the fears and resentment of the said Grand Jury and of the good people of Maryland against their State government and Constitution, a conduct highly censurable in any, but peculiarly indecent and unbecoming any judge of the Supreme Court of the United States; and, that the said Samuel Chase then and there, under pretense of exercising his judicial right to address the said Grand Jury as aforesaid, did, in a manner highly unwarrantable, endeavor to excite the odium of the said Grand Jury and of the good people of Maryland against the Government of the United States by delivering opinions which, even if the judicial authority were competent to their expression on a suitable occasion and in a proper manner, were at that time and as delivered by him, highly indecent, extra-judicial, and tending to prostitute the high judicial character with which he was invested to the low purpose of an electioneering partisan."

Extended testimony was taken upon each of the articles in the impeachment. It has filled two volumes and composes the most elaborate record ever made in such a trial before the United States Senate. The argument of the managers and the counsel for the defence was marked with the greatest bitterness. In this Luther Martin and John Randolph led. Randolph was but thirty-one years of age, but he had already displayed great ability in the House and was renowned because of his caustic wit and sarcastic eloquence. Martin, on

the other hand, was much more of a veteran in the practice of law and far more profound in his interpretation of constitutional issues.

The trial continued from November 30, 1804, until March 1, 1805. During that time practically all other business was suspended by the House and Senate. The upper branch of Congress gave itself over entirely to the impeachment, and the House attended the hearings each day in a body. This was in marked contrast with the Archbald impeachment in 1913, the latest of the trials of this character. For days during this later proceeding the Senate Chamber was practically empty. Even when the arguments were made it was difficult to maintain a quorum. Only when the vote came which convicted the Pennsylvania judge was the Senate chamber filled or the galleries crowded.

On March 1, 1805, the Senate voted upon each of the articles exhibited by the House against Justice Chase. In every case the division was substantially the same. On the eighth and crucial vote the following Senators pronounced the Marylander guilty: Anderson, Baldwin, Breckinridge, Brown, Cocke, Condit, Ellery, Franklin, Giles, Howland, Jackson, Logan, Maclay, Moore, Smith of

Maryland, Stone, Sumter, Worthington and Wright.

Those Senators voting not guilty were Adams, Bayard, Bradley, Dayton, Gaillard, Hillhouse, Mitchell, Olcott, Pickering, Plumer, Smith of New York, Smith of Ohio, Smith of Vermont, Tracy and White.

Nineteen Senators had stood for conviction and fifteen for acquittal. The two-thirds necessary to impeach failing, Vice-President Burr arose in his chair and declared:

"The President declares that Samuel Chase, one of the Associate Justices of the Supreme Court, is acquitted of all the charges of impeachment exhibited against him by the House of Representatives; and the Court is adjourned without day."

This ended the first impeachment in our history, inspired purely by political considerations. It was to be followed in later years by an attempt to remove the head of the government itself by similiar procedure, and in each case the effort met failure. Only in the case of Judge Humphreys has an official of the government been removed on any other than criminal grounds.

The Blount, Pickering and Chase impeachments were the first experiments of our government in turning one branch of Congress into a grand jury and the other into a court of justice. These proceedings were found to be

immensely tedious and expensive. Except in the cases of Chase and Andrew Johnson, interest in the impeachments on the part of the people has not been sustained. The Hastings trial in England had undoubtedly accentuated popular attention upon that of the Marylander before the American Senate. Yet these two proceedings were in sharp contrast in many of their essential elements. For instance, one historian has said that "the impeachment of Judge Chase was a cold and colorless performance, beside the melodramatic splendor of the Hastings trial; but in the infinite possibilities of American democracy, the questions to be decided in the Senate chamber had a weight for future ages beyond any that were then settled in the House of Lords."

Judge Chase lived six years after his acquittal. He returned to the court immediately after the deciding vote was cast and remained constantly on the bench until the end came. His partisanship abated measurably in after years and his judicial record, aside from the indiscretions of his earlier service, is declared by students of Supreme Court decisions to be of a decidedly superior character.

GENERAL SAMUEL SMITH

1752—1839

From the very beginning of the republic down to the present day Marylanders have had conspicuous parts in its affairs. They have led its armies; they have represented it in foreign courts; they made its laws, executed its laws and interpreted those laws from its Supreme Bench. The list of names is long, but the record of achievements is longer. Together, they form a galaxy in which the State may feel an honest pride.

And while there may have been many more brilliant, more spectacular, more profound figures in Maryland's gallery of great men, there has never been one who gave so many years of his life to the public service as did General Samuel Smith. There has never been one who consecrated himself more faithfully and patriotically to the common welfare of all the people of his country.

Soldier first, then statesman, soldier again, statesman again, soldier a third time—his career was decidedly unique. He was, during his eventful life, a veteran of the Revolutionary War, a veteran of the Federal House of

Representatives, a veteran of the War of 1812 and a veteran of the United States Senate. Lastly, he withdrew from the halls of Congress that he might wear until the end the uniform as major-general of the Maryland State militia. And as a sort of valedictory to a long and honorable civil record, he was elected Mayor of Baltimore, a city he loved with a consuming passion.

In all the history of this government there has been but one man who enjoyed a longer continuous service in the Federal Congress than did General Smith. For even forty years this Marylander sat in the House and Senate. William B. Allison, of Iowa, broke this record seventy years later, when he rounded out forty-four years of unbroken service in these two legislative bodies. It is true that during his time General Smith engaged in the War of 1812 as a brigadier-general of the Maryland troops; also that he was Acting Secretary of the Navy in Jefferson's Cabinet. But these duties did not deprive him of a seat in one or the other branch of the national legislature from the beginning of the Third Congress until the end of the Twenty-second Congress.

Moreover, General Smith served for two long periods, alternately, in each, the House and Senate, a fact paralleled only by the career

of Henry Clay. The Marylander sat for ten years, from 1793 to 1803, in the House; then for twelve years in the Senate. For seven years thereafter he returned to the House, and from 1822 to 1833, a period of eleven years, he for a second time represented Maryland in the Senate. And as a crowning honor, General Smith was twice elected president pro tempore of that body, the only representative of his State in history who has been designated to preside over the deliberations of the United States Senate.

During these forty years General Smith saw seven Presidents inaugurated. He entered the House during Washington's administration, and saw John Adams, Jefferson, Madison, Monroe and John Quincy Adams come and go. Lingering yet a few years upon the stage, he saw the first term of Andrew Jackson pass into history. And though during this long period he did not occupy the exalted station attained by many of his contemporaries, yet his name is associated prominently with many of the stirring events of his time.

Regardless of the fact that General Smith sat longer in Congress than any Marylander before or after him, and longer than any man

from any State, with the single exception of Senator Allison, he wore his military title from the beginning to the end of his public career. This, too, in spite of the further circumstance that his place in history has not been fixed by military achievements.

In the House, in the Senate, in the Cabinet and in the Mayor's chair, he was always "General" Smith. He was so addressed by Representatives and Senators on the floor. He was so known to all historians and biographers, and was himself more proud of his military service than of all other honors heaped upon him by the State and the nation.

From early manhood until his death General Smith was associated with the military establishment. He organized a company of volunteers in 1775 in Baltimore and marched at their head into the Revolutionary Army. He was promoted for gallantry to be major, then to be lieutenant-colonel. Returning to Baltimore at the end of this war, he was commissioned a brigadier-general of the State militia.

Still a brigadier, General Smith was sent to Congress, then to the United States Senate. After a few months as Acting Secretary of the Navy, he was called by his State to lead its troops in defence of Baltimore against the British invasion in 1814. At the close of his

second period in the Senate he returned to Baltimore again and was designated as major-general of the State guard. He held that commission until he died in 1839.

Although General Smith was a military hero to all Marylanders, it was his career as a legislator with which this brief review of his life is intended to deal. His bravery on the battlefield was no more distinguished than his labors in behalf of constitutional government in America. He devoted forty years of constructive statesmanship to the nation which he had helped to create with the sword, and those four decades determined whether or not the American experiment was fit to survive.

When Samuel Smith entered the Third Congress Washington was still President. A semblance of order had been evolved from the chaos of the Revolution. The States had yielded to common necessity and united under the Constitution. An executive administration had been organized; courts had been established; a standing army had been formed and the foundations laid for a federal system. It is true that our foreign relations were still unsettled; our western frontiers were faced by British forts, and the Mississippi River was closed against us by the French, yet independ-

ence had been won and our national life had been begun.

When Samuel Smith retired from the United States Senate, two generations later, he retired from a government planted upon solid rock. It had fought and won another war. It had defied France and Spain and had dictated terms to them. It had acquired an empire beyond the Mississippi greater than the area of the original colonies. Its Constitution had been vindicated, and under that instrument a genuine democracy held out its promise to all mankind. This transition from national uncertainty to national security came to pass while General Smith yet remained upon the scene.

During this forty-year period the Maryland statesman was identified in some degree with every great issue that was raised in Congress, and in three of the famous parliamentary battles of his time he stood out as the central figure. He was a leader in the contest for the abolishment of the Congressional caucus for the nomination of Presidential candidates; again, in the controversy between the proponents and the opponents of a national bank, and yet again, in the movement for the recovery by the United States of its West Indian trade.

The bitterest fight in which General Smith engaged as a legislator was that against the Congressional caucus as a method of picking candidates for the Presidency. This ultimately put Smith in a position of hostility with the Madison administration, developed a feud between him and Secretary of the Treasury Gallatin, and ended in his brother Robert Smith being dismissed from the Secretaryship of State by the President. The story is an interesting one.

In 1801 General Smith was still a member of the House. He had become a power in that body, taking rank with Livingston, Gallatin, Macon, Otis, Bayard, Harper and Pinkney. Therefore, when Jefferson was casting about for a Secretary of the Navy, the Maryland Congressman pressed vigorously and successfully the claims of his brother, Robert Smith, to the office.

His family having been properly recognized by the new Executive, General Smith became one of the most ardent of administration supporters. He stood firmly with Jefferson in delivering the central government into the hands of Republicans. He aided in defeating all the Federalist legislation and, until the Randolph revolt against Jefferson in 1806, Smith was strongly leaned upon by the new regime.

Meantime, however, Smith had been promoted to the Senate. Also the second administration of Jefferson was coming to a close. A spirited fight over the succession to the Presidency had arisen between James Madison, Secretary of State, and James Monroe, then Minister to Great Britain. Jefferson, who dominated his party absolutely, had picked Madison for the nomination and, though the "Quids," led by Randolph, were pushing Monroe, the word of Jefferson prevailed and Monroe directed that his name be not presented to the caucus.

At that period and for several years thereafter Presidential candidates were chosen by a caucus of party adherents in the two branches of Congress. The stifling of Monroe's candidacy at this time, however, aroused the first open opposition to this method of nominating Presidential tickets. Only 89 out of 139 Republican Senators and Representatives were present when Madison was picked to head the Jefferson ticket. Some of the Republicans were absent because of sickness, but more of them stayed away because of Jefferson's arbitrary position in Madison's behalf.

Shortly after this caucus was held General Smith organized a body of "schismatic" Republicans in a protest to the country, first,

against the whole system of naming candidates, and second, against the alleged irregularity in the nomination of Madison. An open letter was signed by seventeen members of Congress, including Smith, John Randolph, Joseph Clay and George Clinton, Jr. The malcontents, however, were uable to agree upon either Monroe or George Clinton, Sr., as a candidate, and the whole insurgent movement, in so far as the campaign was concerned, fell through. In less than fifteen years, however, the party caucus, against which the revolters were then proceeding, was abolished as the nominating machinery for national parties.

After his election Madison made an effort to placate General Smith, whose infleunce was strongest among the factionalists, by appointing the General's brother, Robert Smith, Secretary of State. Albert Gallatin, one of the ablest men of his day in either party, had aspired to the State portfolio. The great body of Republicans throughout the country felt that he should have been named. But the new President had adopted a policy of temporizing with the opposition within his party and headed his list of Cabinet appointments with the name of the former Secretary of the Navy. Gallatin was made Secretary of the Treasury.

The well-meant policy of Madison's, designed to harmonize the differences between his party associates, did not, however, prove an effective remedy. Important legislation was pending as a reprisal against the outrages committed by Great Britain just before the War of 1812. The Macon bill, supported by the President, excluding all English and French war and merchant ships from American harbors, had passed the House. But to the amazement of the administration, it was emasculated beyond recognition by the Senate.

This Senatorial revolt against Madison and his friends was led by General Samuel Smith, and had for its object, not the embarrassment of the President, but had the banishment from the Cabinet of Gallatin. The old feud between the Smiths and Gallatin had lately come to a climax when the Secretary of the Treasury brought about an exposure of some irregular operations of the Navy Department while Robert Smith was its head. Gallatin had intimated pointedly that public money had been used by the Smiths for family purposes, and the scandal had been used in a vain effort to prevent the re-election of General Smith to the Senate.

For a full year after this first revolt on the part of the Smith faction in the Senate, Presi-

dent Madison's influence over Congress was defeated. In their determination to neutralize Gallatin's position in the administration the Smiths, one the Premier and the other the Senator, worked tirelessly. And their campaign reached the President as well. "Navigation bills, bank recharter, measures for strengthening the army—whatever Gallatin, and presumably the administration, favored," says one historian, "struck on some hidden rock in the Senate and sank."

When the bank recharter bill failed, Gallatin tendered his resignation to the President. Meanwhile Madison's eyes had been opened, and he determined that his administration should not be discredited by intriguing Cabinet officers. He declined to accept Gallatin's resignation, but he sent for the Secretary of State and offered the Marylander the mission to Russia. Seeing that he was about to be shelved, Robert Smith angrily resigned. This ended the second famous Cabinet feud in our early history and, by a singular coincidence, the official displaced in each of them was a Marylander. James McHenry was the first and Robert Smith the second.

The part played by General Smith in the long and stubborn controversy over the Bank of the United States was, however, more vital, in

a national sense, than his insurgency against the Madison administration. As already stated, he had prevented the rechartering of this institution in 1811, but his motive in that fight was opposition to Gallatin and not the bank. He later stood aside and permitted the Republican majorities in the two houses to grant this charter in 1816, but three years afterward he became engulfed in a scandal growing out of that institution's Baltimore branch, which wiped out his personal fortune and came dangerously near destroying him politically.

Shortly after the bank had been rechartered the Spencer investigation was ordered by the House of Representatives. This inquiry was made in 1819, and its report disclosed an appalling state of affairs in the management of the Baltimore branch. This report revealed the fact that its principal officers were its largest debtors; that its president, Buchanan, was guilty of gross maladministration, and that other officers had united in committing breaches of trust for their personal gain.

As soon as these revelations were published, Buchanan, McCulloch, the cashier, and many of the directors were summarily dismissed. They offered the bank additional security for their debts to it, and after great difficulty this

was raised to the extent of $900,000. Even this restitution did not save the officers from disgrace, but they were, on the contrary, turned out of office.

This same Buchanan was the junior partner in the great commercial house of Smith & Buchanan. General Samuel Smith was the senior member. Immediately following the disclosures of the Spencer investigation the firm, which had been one of the foremost in the country and which was, by odds, the leading house in Baltimore, went to the wall. And as it failed, it carried with it many lesser houses in the city and State.

The historian Schouler graphically describes in his American history the Baltimore panic which followed the bank revelations and the fall of the house of Smith & Buchanan. He says:

"It was a day of mourning for Baltimore. Since 1812 no city in the Union had appeared more steadily prosperous, and now the vain mask was dropped. Debtors, honest and dishonest, were sued and their property attached. The notes discounted on pledge of the stock, a security now so greatly sunk in value, were called in upon partial payments. Local banks were pressed to take up their accumulated paper. The policy of honest retrenchment was vigorously pursued. Following the panic created at Baltimore, a run was commenced upon the State banks in our middle, southern and western sections, the United

States Bank, at the same time, demanding the payment of balances. A legion of these banks, mostly those of the newly settled towns, stopped payment in the summer, leaving their repudiated paper to float while it might among the simple and credulous, passing from one hand to the other. Insolvency notices filled the advertising columns of the newspapers. Merchants met in mass-meetings to memorialize Congress or to devise their own remedies for the crisis."

This panic, which unhappily involved the name of General Smith, was the severest blow he ever received. He had for twenty years been either in the House or Senate, and had not during that time given personal attention to the business of his firm. When the crash came, therefore, he lost all he had, except honor. He was not held responsible by thoughtful people for the collapse of his house or for the panic which ensued, but for a time his name was beclouded along with that of his unworthy partner. For a time it seemed that his State would retire the old veteran to private life, but upon sober consideration of all the facts in the branch bank scandal the people reconsidered and returned Smith to the Senate.

The bank question seemed to pursue General Smith, however. He had stood against rechartering it in 1811, and he had sustained ruinous losses in the Baltimore branch bank panic in 1819. But he was not through with

it. The institution remained an issue as long as he remained in public life and, for that matter, for many years afterward. In 1830 the matter came forward tempestuously, when President Jackson's opposition to the bank was boldly announced. The Executive had sent a message to Congress outlining his reasons for opposing another recharter. By this time General Smith had become chairman of the powerful Senate Committee on Finance, and this message was referred to that body. In spite of all the reverses which he had sustained at the hands of the bank, including the dismissal of his brother from Madison's Cabinet and his own personal losses, the old General reported to the Senate in favor of giving the institution another lease of life.

One of the most important pieces of constructive work done by General Smith came late in life, when he in 1829 fathered the plan whereby the United States recovered its right to trade with the British West Indies. "The recovery of this trade," says Benton in his "Thirty Years' View," "had been a large object with the American government from the time of its establishment. As British colonies, we enjoyed it before the Revolution; as revolted colonies, we lost it; and as an independent nation we sought to obtain it again.

We did regain it, and the one thing which contributed to this good result was the Act of Congress of May 29th, of which General Samuel Smith, Senator from Maryland, was the chief promoter, and by which the President was authorized, on the adoption of certain measures by Great Britain, to open the ports of the United States to her vessels on reciprocal terms."

General Smith remained in the United States Senate until that branch of Congress reached the zenith of its glory. He was Maryland's honored Senator in the "Augustan Age" of this the greatest of all deliberative bodies. Daniel Webster thundered there. Henry Clay and John C. Calhoun were in their prime. Theodore Frelinghuysen, William L. Marcy, Silas Wright, George M. Dallas, John Forsythe, Thomas H. Benton and Thomas Ewing were there. The brilliant Robert Y. Hayne, Hugh L. White and Felix Grundy had appeared upon the national stage. Littleton W. Tazewell and John Tyler and Samuel Prentiss, and William Pinkney and Rufus King were General Smith's contemporaries. It was indeed a Senate of giants, and to have been twice elected to preside over these men was a distinction worthy of any Marylander of any time.

WILLIAM PINKNEY

1764—1822

In all American history there is perhaps no political career that furnishes a parallel to that of William Pinkney, legislator, diplomatist, soldier, statesman, orator and advocate. His was a career amazing in the diversity of public services rendered, and more amazing in the facility with which he met every resposibility, whether engaged in missions abroad or whether holding commissions at home. A mere summary of the achievements of this Marylander is enough to arouse the wonder of any student of biography.

This epitome shows that Pinkney was a member of the Maryland convention that ratified the Federal Constitution; twice a member of the Maryland House of Delegates; once a member of the State Senate; twice a Representative in Congress, with an interim of 26 years; a member of the Maryland Executive Council; Attorney-General of his State; a Commissioner to London under the Jay Treaty; Joint Minister to the Court of St. James; Minister to the same court; Minister to the two Sicilies; Minister to Russia; Attorney-

General of the United States and a member of the United States Senate. In addition to this, he was a soldier in the army during the War of 1812 and was wounded at the battle of Bladensburg.

Such a record of devotion to public affairs is difficult to comprehend. It hardly seems possible that so much could be crowded into the lifetime of a single man or that a State or nation would or could exact so much of one of its sons. But it must be remembered that Pinkney lived in a period when the government, new and untried, needed the services and support of every man of superior talents within its borders. And this Marylander cheerfully gave all that he had of brains and time and accomplishments, first to his State and then to the whole country.

Of all his activities, however, none were so vital to all the American people as were his supreme efforts as the diplomatic representative of his government in London, to prevent a second war with Great Britain. First, as coadjutor of Monroe, and afterward, single-handed, he negotiated desperately to compose the differences between the two countries. He struggled in season and out with an obstinate and arrogant British ministry in the hope of safeguarding by solemn treaty American rights

upon the seas. He demanded only decent treatment of his country's commerce and only an honest recognition of his country's right to live and have its being in the family of nations.

With fateful blindness, however, the British Throne refused to yield either to Pinkney's appeals or to his remonstrances. The outrages against our ships and our seamen continued. Only the argument of gunpowder could influence these Englishmen. This court of last resort was invoked, when Pinkney's peaceful mission finally failed, and for the second time in a single generation America was forced to draw the sword against the most powerful kingdom of its time.

Long before Pinkney was dispatched to London with plenipotentiary powers from this government he had become a conspicuous figure in American public life. He had assumed rank with the leading orators of his day. He had won splendid success at the bar and had distinguished himself as a diplomatist. He had served in legislative bodies in both the State and nation, and was often pointed to as the worthy successor in national councils of

such Marylanders as Carroll, Hanson, Chase and Martin.

At the age of twenty-four Pinkney made his initial appearance as a public servant when he sat as a delegate in the Marylnd convention called to ratify the Federal Constitution. The next two years were spent in the State House of Delegates, and at the age of 27 he was elected as a Representative from Maryland in the Second Congress. Almost immediately, however, he resigned his seat when the question of his eligibility was raised. This question, it seems, involved his residence in Maryland at the time of the election, but the details of it have not been made clear in the official biographies. After serving upon the Executive Council of Maryland for three years, he was a second time elected to the House of Delegates in 1795.

Pinkney's first mission abroad was dated a year later. He was appointed by President Washington a Commissioner at London under the Jay Treaty, and resigned his seat in the Maryland legislature forthwith. This was a highly important assignment. It involved primarily the settlement of British claims against the United States arising out of Revolutionary War confiscations, and was a part of the general program conceived by President

Washington for the maintenance of peace with England.

John Jay, the first Chief Justice of the United States Supreme Court, had in 1794 been sent to London as an envoy extraordinary, empowered to negotiate a treaty under the terms of which the President hoped to adjust the complications which followed the repeated attempts on the part of the British government to drive American commerce off the seas. Great Britain was at war with France, as was Spain, Austria, Russia and Prussia a little later. The French revolution had been raging for years, and out of it had come the French republic. In the combined effort by European monarchies to crush republicanism on the Continent, England had undertaken the duty of blockading the French coast. And it was under such a pretext that the maritime interests of the United States had been preyed upon, American seamen impressed and American trade with neutral as well as belligerent countries practically paralyzed.

These were some of the grievances that the Jay Treaty was designed to remedy. Such a convention was finally concluded, forwarded to the United States and, though unpopular in the extreme, it was ratified by the Senate. Under it the American government agreed to

compensate Great Britain "for the confiscated debts of the Revolution, so far as 'lawful impediments since peace' might have prevented their collection. On the other hand, Great Britain promised indemnity to American citizens for the unlawful captures recently made of American vessels. Finally the United States should recompense or make restitution in respect to the Genet captures of 1793 by privateers fitted out in our ports."

The determination of the amounts of money which the British on the one hand and the Americans on the other, were to receive under the stipulations of this treaty, devolved upon William Pinkney and his colleagues on the American Commission to London. For eight years the Marylander remained in the British capital, and while the awards of the body of which he was a member do not occupy a conspicuous place in history, the experience gained in these negotiations and the confidences won while abroad eminently fitted this rising young diplomat for the infinitely greater service which he rendered his country a few years afterward. He came home to become Attorney-General of his State in 1805, but retired from that office a year later, when President Jefferson made him Joint Minister to Great Britain with James Monroe.

Meanwhile the stormy administration of John Adams had passed into history. War with France had been threatened as a result of the Jay Treaty. The French people had resented the pact as an affront from a nation that owed its existence to French intervention. French men-of-war were sent out to harass American commerce. The American Ambassador at Paris had been insulted and ordered out of the country. Three special envoys—John Marshall, Elbridge Gerry and Charles Pinckney—had been sent to France to seek peace, but were met at once with demands for bribes and returned without opening formal negotiations. America armed itself for war and was preparing to fight, when France relented and signed the Treaty of 1800, whereby peaceful relations between the two countries were again restored.

America's foreign relations, however, did not improve with the ratification of the French treaty, nor even with the conclusion of a more favorable convention with Spain. On the contrary, troubles multiplied. Great Britain, disregarding the spirit, if not the letter, of the Jay Treaty, renewed its depredations upon American shipping, and strained relations between England and the United States again existed. This was the situation when Thomas

Jefferson became President in the first year of the nineteenth century.

James Monroe, who had been Minister to Spain, then Minister to France, had by this time been transferred to the London Legation. He had been ineffectively negotiating with the British Ministry for relief from assaults which American commerce suffered at the hands of British men-of-war. Pitt had in 1805 held out some encouragement to Monroe for a peaceful arrangement, but a little later he died, and Jefferson, alarmed over the probable attitude of the new ministry, decided to send William Pinkney to join Monroe at London.

This act on Jefferson's part greatly chargin-ned Monroe and, incidentally, figured largely in the Democratic politics of the next few years. Jefferson had picked James Madison to succeed him as President, though Monroe was openly ambitious to be Jefferson's official heir. John Randolph, meanwhile, had broken with Jefferson, and a strong movement had been organized by Randolph to nominate Monroe instead of Madison for the Presidency. The appointment of Pinkney, a Federalist, for the purpose, as alleged, of humiliating Monroe, was made an issue of. Monroe found it expedient, however, to remain at his post, and the plan of defeating Madison was, for a

time, abandoned. That Jefferson expected Monroe's resentment at the designation of the Marylander as Joint Minister, is indicated by a line in the letter written by the President to the Minister. "Pinkney," wrote Jefferson, "will be authorized to take your place whenever you think yourself obliged to return."

Pinkney's selection as Joint Minister to London gave him a rare opportunity to make for himself an honored place in American history. Schouler, the historian, says that "with Pinkney's polished manners and conservative views, he was a most acceptable American to British court circles." Jefferson believed that if any man in America could restrain the British, could make that nation see the justice of American rights upon the sea, and that the only favor we asked was the privilege of being left alone, that man was William Pinkney. The President believed that Monroe would soon ask for his recall, which circumstance would, of course, leave in Pinkney's hands the full responsibility of deferring, if not actually preventing war.

Just how near we were to war with England when Jefferson found it necessary to dispatch Pinkney to London, may be indicated by the outraged feelings of the President himself. He bitterly resented the lawless attitude of

Great Britain toward American commerce, and in his message to Congress in 1805 he said:

"Our coasts have been infested and our harbors watched by private armed vessels, some of these without commissions, some with legal commissions, but committing piratical acts beyond the authority of their commissions. They have captured in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but also our own. They have carried them off under the pretense of legal adjudicure, but not daring to affront a court of justice. They have plundered and sunk them by the way, maltreating the crews and abandoning in boats in the open sea and on desert shores without food or covering."

This is indicative of the state of relations between America and Great Britain when Pinkney a year later arrived in London. As soon, however, as he joined Monroe the two Americans invited negotiations for a new treaty. Lords Holland and Auckland responded favorably, and for more than three months the two envoys bargained with the Englishmen for a pact that would secure American neutral rights and outlaw reprisals, privateering and general discriminations against American commerce. Pinkney and Monroe held out obstinately for an article that would prohibit the impressment of seamen, but this proposal was rejected, assurance being given,

however, that officers who impressed subjects of a neutral nation would be punished.

A treaty was finally concluded late in the year, and though it did not carry into effect the instructions given the two envoys, particularly upon the question of impressment, the instrument was signed and forwarded to the President. Just before this act was accomplished, however, Napoleon, hoping to interfere with the negotiations, issued his famous Berlin decree, declaring the British Isles in a state of blockade and prohibiting all commerce with them by neutral nations. He further prohibited the admission into any French port of vessels that had first visited England. This had the immediate effect of a demand by the British Ministry that the United States resist the French aggressions, with a reservation on the Ministry's part to retaliate against France. Until these terms were agreed to Holland and Auckland refused to sign the treaty. Pinkney and Monroe declined to agree to these new terms. The British then yielded, but with express reservations.

This treaty was instantly condemned by the President and his friends in Washington, because of its failure to contain any stipulation against the seizure of American seamen. The two negotiators were commended for their ef-

forts, though their first joint attempt to settle the vital differences between the two countries failed. The convention was sent back to London "as a sort of project which all parties had submitted with the knowledge that it did not embody official instructions."

With the Decree of Berlin and the British Orders in Council, the latter having been promulgated first, now in effect, the warring nations of Europe sought to establish paper blockades against all neutral trade with any of the belligerent nations. The British order forbade trade between the United States and any European port from which the British were excluded. Napoleon's decree announced that any ship was a good prize that should sail for or from any British port. And in the enforcement of this outrageous warfare against neutral shipping history has repeated itself in the situation obtaining in Europe today. In the present conflict Germany has declared the existence of a "war zone" around the British Isles. England, as a measure of reprisal, has declared all foodstuffs destined to Germany contraband and subject to seizure and confiscation.

The only difference in the two situations lies in the fact that both France and England in 1807 formally declared a "blockade"

against the ports of the other, a measure, by the way, which neither could effectively enforce, whereas in the present instance neither Germany nor England has undertaken to establish a blockade as recognized by international law. Each of them has sought to gain the advantages of one without assuming the responsibility of such action.

At all events, the two blockades of 1807, which were subsequently reinforced by Napoleon's Milan Decree, were intended to completely destroy neutral commerce. And as America was the only maritime nation of consequence at that time not at war—as she is the only great commercial nation today at peace—her interests were those which suffered most. This condition, coupled with Jefferson's fervent hope of escaping the delirium of war into which Europe had been plunged, led to a reopening of negotiations in London for a peaceful understanding.

Important administrative changes had meanwhile taken place in England. The Fox-Grenville Ministry, which had come into power upon the death of the younger Pitt, passed out with the untimely death of Fox. George Canning, who has been described as a man of "vigorous mind, but set as a bulldog and satirical in his dislikes," became head of the Foreign Office.

Canning was far less friendly to the United States than had been Holland and Auckland, yet Pinkney and Monroe called upon the new Minister. Canning refused at first to proceed with the interview, saying that the Jefferson administration had rejected the former treaty and "that the relations of the two countries were made most embarrassing."

Canning later reconsidered to the extent of accepting overtures from the American envoys and gave some slight indication of yielding in a measure to the advances of the two Americans. Before this intercourse could proceed to the point of considering terms, however, diplomatic transactions came to a sudden halt. A British sloop had defied the authorities at Charleston, S. C., and had fired a shot over the town when ordered to leave the port. Before the excitement over this had subsided the English two-decker Leopard overhauled and fired a broadside into the American cruiser Chesapeake off the Virginia Capes in an effort to take from the American vessel three alleged deserters from the British navy. Obviously, negotiations paused while America deliberated upon these outrages.

About this time the opposition to the election of Madison as Jefferson's successor became again active, and Monroe, upon whom

this opposition centered, asked for his recall. The President, accordingly, in the fall of 1807 directed Monroe to return to Washington, leaving William Pinkney alone in London to carry the whole burden of preserving such relations between the United States and Great Britain as might still leave the way open for adjustments.

Congress had been convened at home and the Embargo Act was passed as a measure of retaliation, not only for the murderous assault upon the Chesapeake, but as an answer to the increasing menace to neutral commerce under the various blockade decrees. This prohibited American vessels from trading with any foreign port, neutral or belligerent. This law, it was later found, inflicted great injury upon domestic interests and very little upon Great Britain. It was, therefore, repealed fourteen months after enactment, and in its place the Non-intercourse Act was passed. This prohibited Americans from trading with England or France, but not with other nations.

With the Non-intercourse Act as a weapon, Pinkney for a third time sought to move the British Cabinet. An offer was made by him, at the suggestion of the President, that this act would not be enforced against England if that country would modify its attitude toward

American commerce. Canning arrogantly rejected this proposal, asserting that the embargo had demonstrated that England was not, after all, dependent upon the trade of America. More than that, however, it is evident that Canning believed that the financial distress in the Untied States would force Jefferson to lift the embargo whether or not terms were made with Britain.

This was the status of affairs when Jefferson retired from the Presidency in 1801, to be succeeded by Madison. Early in the new administration Napoleon, as shrewd as a diplomat as he was daring as a soldier, affected to withdraw the Berlin and Milan decrees, and in a letter issued through the Duke of Cadore announced their revocation. This seemed to restore friendly relations between the United States and France, but more important than that, it gave the Madison administration another opportunity to reopen negotiations with Great Britain to the same end. The Non-intercourse Act, in so far as it applied to France, was thereupon suspended, and, armed with Cadore's letter, Pinkney renewed his struggle with the British Cabinet for a change of policy toward the American government.

Again, however, the Ministry had changed. Canning had fought a duel with Lord Castle-

reagh and had been driven out of office. The Marquis of Wellesley had succeeded to the Foreign Office portfolio. In this connection Madison hopefully wrote to Pinkney: "Should a change in the composition or calculations of the Cabinet give a favorable turn to its policy toward this country, it is desirable that no time be lost in allowing it its effect." This in mind, Pinkney approached Wellesley with a proposal that England follow Napoleon's lead and revoke the British orders.

For weeks and months Pinkney labored to effect a conciliatory attitude on the part of Great Britain toward the United States. After many fruitless interviews, however, he learned that under no existing circumstances would the Orders in Council be recalled. This last effort failing and realizing finally that soon or late this country would have to fight for what it could not secure by peaceable means, Pinkney in 1811 left London in disgust and returned to the United States.

For five long years Pinkney labored vainly but determinedly to change the insolent policy of Great Britain toward the United States. He offered every concession that could be honorably made. He proposed every possible compromise and urged every consideration that could be made the basis of a negotiation.

But his task was a hopeless one from the start. England, smarting still over the Revolutionary War, would not yield until another war had come and another defeat had been inflicted upon her by the new republic. But blame for the inevitable was not Pinkney's reward. Instead he was, after a few months' service in the Maryland State Senate, invited to become Attorney-General of the United States in the reformed Madison Cabinet.

Early in January, 1912, Pinkney entered Madison's official family and served as Attorney-General for a little more than two years. He was, therefore, the President's legal adviser during the greater part of the War of 1812. Pinkney had become the foremost advocate at the American bar and, feeling that the time had come when he should give some attention to his private practice, he left Washington and returned to Baltimore in February, 1914.

In August of the same year, however, this great Marylander again entered the public service, when he was elected a member of the Fourteenth Congress, a body from which he had resigned 26 years before. An incident of his two-year term in the House has been recited by a contemporary. "Mr. Pinkney," says this writer, "came into the House with a

national reputation, in the fullness of his fame and exciting a great expectation. He spoke on the treaty-making power, a question of diplomatic and constitutional law, and having been minister to half the courts of Europe, Attorney-General of the United States and a jurist by profession, could only speak in one way—as a great master of the subject; and, consequently, appeared as if instructing the House. John Randolph, a veteran of 20 years parliamentary service, thought a new member should serve a little apprenticeship before he became an instructor, and wished to signify that to Mr. Pinkney. He had a gift such as man never had, at delicate intimation, where he desired to give a hint without offence, and he displayed it on this occasion. He replied to Mr. Pinkney, referring to him by the parliamentary designation of 'the member from Maryland,' and then pausing, as if not quite certain, added, 'I believe he is from Maryland.' The implied doubt as to where he came from, and consequently as to who he was, amused Mr. Pinkney, who understood it perfectly, went over to Mr. Randolph's seat, introduced himself and assured the Virginian that he was 'from Maryland.' "

Pinkney went on two other missions abroad. He resigned his seat in the House to become

Minister to the two Sicilies, and a little later served two years as Minister to Russia. Returning to Maryland in 1818, he was elected to the United States Senate to succeed Alexander C. Hanson, remaining in that body until he died in 1822. It was as an orator rather than as a diplomat that he was best known to his contemporaries, but it was his service in diplomatic fields that he gave to the nation the best years and fruits of his life. Thomas H. Benton, with whom Pinkney served in the Senate, recognized in the Marylander the greatest orator of his day, as is eloquently indicated in the following tribute from Benton's "Thirty Years in the United States Senate":

"William Pinkney was considered in his day the first of American orators, but will hardly keep that place with posterity, because he spoke more to the hearer than the reader—to the present than to the absent. He labored his speeches hard, but it was for the effect of their delivery and the triumph of present victory. He loved the admiration of the crowded gallery; the trumpet-tonged fame which went forth from the forum; the victory which crowned the efforts; but avoided the publication of what was received with so much applause, giving as a reason that the published speech would not sustain the renown of the delivered one. His forte as a speaker lay in his judgment, his logic, his power of argument, but, like many other men of acknowledged pre-eminence in some gift of nature, he courted his

imagination too much and laid too much stress upon action and delivery.

"Pinkney's last speech in the Senate, "Benton continues, "was in reply to Rufus King, on the Missouri question, and was the master effort of his life. The subject, the place, the audience, the antagonist, were all such as to excite him to the utmost exertion. The subject was a national controversy convulsing the Union and menacing it with dissolution; the place was the American Senate; the audience was Europe and America; the antagonist was PRINCEPS SENATUS, illustrious for thirty years of diplomatic and senatorial service and for great dignity of life and character. And Pinkney's was a dazzling and overpowering reply, with the prestige of having the Union and harmony of the States for its object, and crowded with rich material. The most brilliant part of it was a highly wrought and splendid amplification (with illustrations from Greek and Roman history) of that passage of Burke's speech upon 'Conciliation with the Colonies,' in which, looking to the elements of American resistence to British power, Burke looked to the spirit of the slave-holding colonies as a main ingredient, and attributes to the masters of slaves, who are not themselves slaves, the highest love of liberty and the most difficult task of subjection. It was the most gorgeous speech ever delivered in the Senate, and the most applauded; but it was only a magnificent exhibition, as Mr. Pinkney knew it would not sustain in the reading the plaudits it received in delivery; therefore, he avoided its publication."

As a lawyer William Pinkney had few peers at the Maryland bar or at the bar of any other State. In him was found that rare combination of brilliancy and absolute precision in the

presentation of a case, whether to a court or to a jury. This review of Pinkney's public services is designed to outline his achievements in a broad, national sense, but it would be totally incomplete without a recognition of his superb skill and profound learning as a practitioner of the law.

Of Pinkney's power as an advocate and a lawyer, Chief Justice Roger B. Taney, in his autobiography, says:

"I have heard almost all the great advocates of the United States, both of the past and present generation, but I have seen none equal to Pinkney. He was a profound lawyer in every department of the science, as well as a powerful and eloquent debater. He always saw the strongest point in his case, and he put forth his whole strength to support it and enforce it by analogies from other branches of the law. He never withdrew the attention of the Court from his point by associating with it more questionable propositions obviously untenable. He seemed to regard such arguments as evidence of a want of legal knowledge in the speaker."

WILLIAM WIRT

1872—1834

It is an historic circumstance that the "border" States of the Union, that is, the group of Commonwealths occupying a sort of neutral position between the North and the South, have not been producers of Presidents. They have contributed handsomely in other directions to the statesmanship of the country, but not one of them ever sent a son to the White House.

In the earlier days of the Republic the South, as a section, was prolific of Presidents. Six Virginians, three Tennesseeans and one Louisianan were elevated to that high office. Since the Civil War, no Southerner has attained the Presidency, and but few have aspired to it. William Henry Harrison, Abraham Lincoln and Woodrow Wilson were born south of the Ohio River, but they were nominated and elected as men of the North.

The extraordinary fact remains, however, that the borderland, extending from Maryland to Missouri, has never enjoyed the honor of furnishing the nation with an executive head. Kentucky offered her Clay and her Breckinridge; Missouri tried to nominate

Benton, Bland and Clark; West Virginia has come no nearer the mark than one candidate for the Vice-Presidency, and Maryland, in all our national history, has presented but two Presidential aspirants to the country.

This distinction was reserved for William Wirt and Joshua Levering. In 1832 Wirt headed the Anti-Masonic ticket against Jackson and Clay and, though he received the electoral vote of but one State, the movement which he championed created a new and burning party issue; shattered for a time the ranks of the old political organizations and forever destroyed Henry Clay's hope of reaching the goal of his cherished ambitions.

But few popular impulses during our career as a nation have so profoundly stirred the people as did that widespread agitation against Free Masonry. It was one of those rare yet remarkable phenomena in our politics which, "like a comet spacing the sky, betoken some mighty convulsion, then disappears to falsify and be forgotten." Such was the fate of the one-idea propaganda to which Wirt lent his name and the weight of his great influence.

Wirt's nomination and defeat for the Presidency was the climax of his singularly notable career as a lawyer, a statesman and an author. A native Marylander, an adopted Virginian,

then a Marylander once more, he figured conspicuously for nearly forty years in the professional and political annals of two States and the nation. He first came into national prominence when he led the prosecution of Aaron Burr, charged with the crime of high treason, and delivered, during the course of that famous trial, a speech that yet has rank among the greatest masterpieces of forensic oratory in the field of American jurisprudence.

From the Virginia bar Wirt was appointed Attorney-General of the United States. He served for twelve consecutive years as chief counsel for the government, a greater period than any man has ever occupied that office, and much longer than any man ever sat continuously in a Presidential Cabinet, with the one exception of James Wilson.

Following his long term of public service, extending over three administrations, a term marked by participation in some of the most important litigation ever argued before the United States Supreme Court, Wirt again turned to the State of his birth to spend his last years upon her soil.

Unlike most young men then, as now, who at an early age are thrown upon their own resources, William Wirt met but few of the re-

verses common to such a beginning. Though an orphan at eight and without inheritance, he seems to have found success awaiting him at every turn. Precocious as a child, handsome and brilliant as a youth, he attracted men to him easily and held them firmly. This was characterictic of his school days, and even more marked when, in 1792, he opened a law office in Culpepper Court House, Virginia.

The same charming personality endeared Wirt to friends of high and low degree when he moved to Charlottesville, where he first met Jefferson and Monroe; when he went to Richmond to be Clerk of the House of Delegates, and Chancellor of the Eastern District; when he went to Norfolk to practice law, and when he returned to Richmond to rejoin the bar of that city. Business seemed to come naturally to him, and successes to follow just as naturally. His was indeed a remarkable beginning, free as it was from the more pronounced failures, the disappointments and the heart-breaking toil through which most men of eminence reach their high station.

This is not to say that William Wirt was a prodigy as a man or as a lawyer. He was neither. Yet his mind was so all-absorbing, so eager and so responsive that he acquired learning readily, and imparted it with equal

facility. At thirty he was an author, his volume, "Letters of a British Spy," having appeared. Less than five years later his essays, collected under title of "The Rainbow," were published. In two more years, "The Old Bachelor," in two volumes, was finished and Wirt's incomparable biography of Patrick Henry under way.

From early youth literary enterprise had been Wirt's cherished ambition. If this had been profitable we might never have heard of the legal attainments of this man. It did not pay, however, and the law ultimately became the ruling passion of his life. His practice was promising from the beginning, but it did not assume other than local character until Wirt had taken part in the sensational trial of Aaron Burr.

This young man had barely reached the age of 33 when President Jefferson, impressed with his great ability, retained Wirt to aid Attorney-General Cæsar Rodney and District Attorney Hay in prosecuting Burr before the Federal Court for the District of Virginia, and with this conspirator, his associates, Herman Blennerhassett, Jonathan Dayton, John Smith, Comfort Tyler, Israel Smith and David Floyd. This trial gave William Wirt an opportunity that comes to but few lawyers, great

or near-great. And American court history records no greater personal triumph than the conduct of Wirt upon this memorable occasion.

The story of Burr's mad attempt to disrupt the Union and to establish an empire below the Rio Grande; of his exposure and his arrest; of his arraignment before a court over which Chief Justice Marshall presided; of his indictment for high treason by a grand jury headed by John Randolph of Roanoke; of the long and bitter contest of opposing counsel, and finally of Burr's acquittal, in spite of Jefferson's determination to hang him—this story is told in the sketch of Luther Martin, published in this volume.

Future generations may have lost sight of the details of this notorious effort to dismember the Union, and may have lost interest in the dramatic proceedings against the arch-conspirator, but time has failed to obscure the fame of William Wirt's masterly argument against Burr in this case. It was a speech of four hours' duration, passages of which rivaled the "exuberance of thought and the splendor of diction" which marked the charge of Edmund Burke against Warren Hastings. It was Wirt's noblest effort as an orator, and when he pictured Blennerhassett's island as an

Eden, with Burr as its tempter, the little court-room audience yielded to uncontrollable emotion. Even the stern Chief Justice seemed spellbound and the defendant recoiled as though touched by fire. This part of Wirt's speech is worthy of preservation for all time. It is as follows:

"Who is Blennerhassett? A native of Ireland, a man of letters who fled from the storm of his own country to find quiet in ours. His history shows that war is not the natural element of his mind. If it had been, he would never have exchanged Ireland for America. So far as an army from furnishing the society natural and proper to Mr. Blennerhassett's character, that on his arrival in America he retired even from the population of the Atlantic States, and sought quiet and solitude in the bosom of our western forests. But he carried with him taste and science and wealth; and lo, the desert smiled! Possessing himself of a beautiful island in the Ohio, he erects upon it a palace, and decorates it with every romantic embellishment of fancy. A shrubbery that Shenstone might have envied blooms around him. Music that might have charmed Calypso and her nymphs is his. An extensive library spreads its treasurers before him. A philosophical apparatus offers to him all the secrets and mysteries of nature. Peace, tranquillity and innocence shed their mingled delights around him. And to crown the enchantment of the scene, a wife, who is said to be lovely even beyond her sex, and graced with every accomplishment, had blessed him with her love and made him the father of several children. The evidence would convince you that this is but a faint picture of the real life. In the midst of all this

peace, this innocent simplicity, this tranquillity, this feast of the mind, this pure banquet of the heart, the destroyer comes; he comes to change this paradise into a hell. Yet the flowers do not wither at his approach. No monitory shudderings through the bosom of their unfortunate possessor warn him of the ruin that is coming upon him. A stranger presents himself. Introduced to their civilities by the high rank which he had lately held in his country, he soon finds his way to the heart by his dignity and by the elegance of his demeanor, the light and beauty of his conversation, and the seductive and fascinating power of his address. The conquest was not difficult. Innocence is ever simple and credulous. Conscious of no design itself, it suspects none in others. It wears no guard before its breast. Every door and portal and avenue of the heart is thrown open and all who chose it enter. Such was the state of Eden when the serpent entered its bowers. The prisoner, in a more engaging form, winding himself into the open and unpracticed heart of the unfortunate Blennerhassett, found but little difficulty in changing the native character of that heart and the objects of its affection. By degrees he infuses into it the poison of his own ambitions. He breathes into it the fire of his own courage; a daring and desperate thirst for glory; an ardor panting for great enterprises, for all the storm and bustle and hurricane of life. In a short time the whole man is changed, and every object of his former delight is relinquished. No more he enjoys the tranquil scene; it has become flat and insipid to his taste. His books are abandoned. His retort and crucible are thrown aside. His shrubbery blows and breathes its fragrance upon the air in vain; he likes it not. His ear no longer drinks the rich melody of music; it longs for the trumpets clangor and the cannon's roar. Even

the prattle of his babes, once so sweet, no longer affects him; and the angel smile of his wife, which hitherto touched his bosom with ecstacies so unspeakable, is now unseen and unfelt. Greater objects have taken possession of his soul. His imagination has been dazzled by visions of diadems, of stars and garters and titles of nobility. He has been taught to burn with restless emulation at the names of great heroes and conquerors. His enchanted island is destined soon to relapse into a wilderness; and in a few months we find the beautiful and tender partner of his bosom, whom he lately 'permitted no winds of summer to visit too roughly,' we find her shivering at midnight upon the wintry banks of the Ohio, mingling her tears with the torrents, that froze as they fell. Yet this unfortunate man, thus deluded from his interest and his happiness, thus seduced from the paths of innocence and peace, thus confounded in the toils that were deliberately spread for him, and overwhelmed by the mastering spirit and genius of another—this man, thus ruined and undone and made to play a subordinate part in this grand drama of guilt and treason, this man is to be called the principal offender, while he by whom he was thus plunged in misery is comparatively innocent, a mere accessory! Is this reason? Is it law? Is it humanity? Sir, neither the human heart nor the human understanding will bear a perversion so monstrous and absurd! So shocking to the soul! So revolting to the reason! Let Aaron Burr then not shrink from the high destination which he has courted! And having already ruined Blennerhassett in fortune, character and happiness forever, let him not attempt to finish the tragedy by thrusting that ill-fated man between himself and punishment."

From the date of this trial Wirt's standing as a lawyer rose, year by year. He even then occupied first position at the Virginia bar. Meanwhile he had become the firm friend of both Madison and Monroe, as well as the friend and disciple of Jefferson. Madison had succeeded to the Presidency, and in the process of forming a new Cabinet, Wirt was asked if he would become Secretary of State, then regarded as the stepping-stone to the office of Chief Executive itself. Nothing, however, could induce him to consider the matter. Of the offer he said that "I am about as fit to be Pope at Rome and I will not sacrifice my wife and family upon the altar of political ambition."

Wirt's eyes were turned upon the Attorney-Generalship, but Madison, after much hesitation, appointed William Pinkney, a Marylander, whose career has already been reviewed in this volume. Madison, however, asked Wirt to take the District Attorneyship for Virginia and the offer was at once accepted. This office was wholly in line with Wirt's professional training and aspirations. Moreover, it gave the young attorney a coveted opportunity to practice before the United States Supreme Court. And in his very first case before that tribunal it was

Wirt's singular fortune to be opposed by the brilliant Pinkney, the beginning of a series of such contests. Welcoming the chance to measure minds with the leading lawyer of the country, Wirt about this time wrote to a friend that "the blood more stirs to rouse the lion than to hunt the hare."

The beginning of the succeeding administration found Wirt in Monroe's Cabinet as Attorney-General. Though the Burr prosecution had brought him nation-wide renown, this appointment at the hands of Monroe gave this Virginia-Marylander his first fixed relation to the politics of his time. Moreover, it was the goal of his fondest dream and, having reached it, the new official entered upon his duties with a consuming enthusiasm.

Almost immediately the new Attorney-General plunged into the litigation then pending before the highest court. Two cases of great consequence, involving grave constitutional questions, were soon to be argued, and in each of them Wirt was face to face with the best legal minds of that period of our history. The first was McCulloch vs. the State of Maryland, and the second was the Dartmouth College case. On the side of the plaintiff in the McCulloch case Wirt had as his associates Webster and Pinkney, while Luther Martin, Jones

and Hopkinson constituted the opposition. A list of names more distinguished had never been associated in any legal cause in this country. And the court was itself at that time the centre of the greatest national interest. It was a "holy sanctuary"—a "more than Amphictyonic council," as Pinkney described it. Wirt and his associates won their fight, though the young Attorney-General was looked upon before this proceeding as a mere boy just out of the debating-society stage of legal practice.

In the Dartmouth College case Wirt was for the first time opposed by the great Webster, and, to his great chargin, he was unable to convince the court of the merit of his contentions. Webster was victorious, but was generous enough to say of Wirt's conduct of the defendant's cause that "it is the universal opinion that the argument was a full, able and most eloquent exposition of the rights of the defendant. I will add that, in my opinion, no future discussion of the questions involved in the cause, either at the bar or on the bench, will bring forth, on the part of the defendant, any important idea which was not urged, expanded and pressed in the argument referred to."

During the next few years Wirt and Pinkney clashed repeatedly in the courts at Wash-

ington and at Baltimore. They stood out as great rivals at the bar, just as did Pinkney and Luther Martin a generation before. All the while, however, the warmest feeling of mutual regard existed between the two men, and when Pinkney died in 1822, Wirt wrote: "Poor Pinkney! He died opportunely for his fame. He could not have risen higher. He was a great man. On set occasion, the greatest, I think, at our bar."

In 1829 Wirt retired from the Attorney-Generalship. He was not in sympathy with the Jackson administration and, besides, he wished to again return to private life. He had flattering offers of professional connections both at New York and Baltimore. He had long been anxious, however, to take up his residence once more in his native State, and the same year that he resigned his Cabinet portfolio he removed with his family to Baltimore. He had for the past ten years been identified with the Maryland courts, the State judges waiving the three-year residence law in his behalf, on the ground that as an official of the federal government he was entitled to appear before any court of any State.

This move brought Wirt to the threshold of the most interesting chapter in his whole career. As already stated, he was in direct op-

position to the imperious President, and when Jackson came up for re-election in 1832 he enlisted at once in the Whig cause. He was named as a delegate from one of the Baltimore districts to the Whig Convention and announced his support of Henry Clay. Before this convention could assemble, however, he found himself the nominee of another party, equally as hostile to Jackson as were the Whigs.

The anti-Masonic party had come into being before Wirt departed from Washington. It's rise was one of the strangest, yet most potential, events in our politics as a nation. As a movement politicians had sneered at it and pretended to ignore it, yet they found it in the campaign of this year a factor to be reckoned with. The story of the agitation against Masonry is full of interest.

William Morgan, a bricklayer of Batavia, N. Y., who had sought to earn a few dollars, had in 1826 written a book purporting to expose the secrets of Free Masonry. He was a member of the order. The Masons of his community heard of this design and caused his arrest on some petty charge. He was imprisoned over Sunday and, while absent, his house was searched for the manuscript. A month later Morgan was arrested a second

time for a debt of $2.10 and imprisoned under an execution for $2.69, debt and costs. The following day the creditor announced that the debt was satisfied. Morgan was released, but as he walked out of the prison he was seized by a band of masked men, placed in a closed carriage and driven to Fort Niagara, where he was detained.

A few days later a body was found floating in the river and was identified as that of Morgan. Stubbornly the Masons denied that the dead man was Morgan, yet he was never heard of after that time. Meanwhile, the printer's shop which was supposed to have the manuscript was searched and burned. In the following January a number of men were tried for conspiracy and abduction. They pleaded guilty to escape disclosure of details. They admitted abduction in the case of Morgan, but stoutly denied that their victim was dead. Even so, the general feeling throughout Western New York was that Morgan had been foully murdered, and as a result a demand arose for the banishment of all secret orders.

A committee was appointed at a great mass-meeting to carry on an extra-legal investigation into all the facts of the alleged outrage. As the matter proceeded it became so involved that no legal tribunal could make heads or

tails of the affair. It did, however, find its way into local politics of that end of the State. The politicians tried desperately to keep Masonry down as an issue, but the inflamed passions of the people were aroused and could not be curbed. Candidates for office were cornered and made to declare themselves Masons or Anti-Masons. All other questions were subordinated.

The Masons defended themselves, first with the statement that no outrage in the form of murder and been proved, and second, on the ground that Masonry, as an institution, should not be discredited by a few misguided men who committed crimes in its name. This did not influence the people, however, and in a year the Masonic issue had torn to pieces the old parties in the State.

In 1828 the anti-Masons aligned themselves with the followers of Clinton, the last guard of the old Federalists in New York. They were joined, too, by many "buck-tails." Jackson and Clinton, who were themselves Masons, were allies in that year, but many of the antis refused to follow their late leader for Jackson as against Adams. This was the first split in national politics, forced by the Masonic issue.

Gaining force month by month, the anti-Masons, by 1830, were a powerful factor

in New York politics and put an anti-administration ticket in the field. From that move the agitation spread rapidly. Thousands of followers were gained in Massachusetts and Pennsylvania. Vermont became its stronghold. In Connecticut and Ohio it had measurable strength. It was broadened by 1831 to embrace the abolishment of all secret orders. Two old stalwarts, John Quincy Adams and Joseph Story, were so sympathetic that they spent days in an effort to destroy the Phi Beta Kappa fraternity at Harvard College.

In September the national anti-Masonic party met in convention at Philadelphia, but proceeded no further than to issue a call for another meeting to be held a year later at Baltimore, when candidates for the Presidency and Vice-Presidency would be nominated. When that body convened a second time, twelve States were represented by 112 delegates, among whom sat two history-makers of a later period—William H. Seward and Thaddeus Stevens.

Sentiment in this convention was practically unanimous for the nomination of Wirt. One or two other names were considered for a time, but his was the only one that was placed in nomination, and the action of the delegates was unanimous. Amos Ellmaker, of Pennsyl-

vania, was placed on the ticket as his running mate. Wirt himself had taken two degrees in Masonry, but had long before neglected his duties to the order and had, in effect, abandoned it. His letter of acceptance, addressed to the convention, did not embrace all the tenets of the new party. In this paper, for instance, he said that "Masonry and Anti-Masonry are fitter subjects for farce than tragedy."

However, Wirt entered seriously into the spirited campaign that followed his nomination. He put aside the Morgan case as an unfit incident for political controversy, but he placed himself on a platform opposed to all secret oaths and orders which might interfere with the civic duties of a citizen. At the same time the party of which he was the titular leader issued a long address to the people outlining its history and the principles for which it stood.

It has long been doubted if Wirt would have accepted the anti-Masonic party nomination if he had not believed that Clay would withdraw as the Whig candidate, thereby making it possible for all the anti-Jackson forces to amalgamate. Clay himself refused to treat with the anti-Masons, and all opportunity of uniting the opposition behind him had van-

ished. Clay stood pat against withdrawing, however, and Wirt's one chance of defeating Jackson went glimmering.

The outcome of the election in 1832, with three tickets in the field, was a foregone conclusion. The elements hostile to General Jackson were hopelessly divided, and in the end they seemed more bent upon crushing each other than in disloging the Democratic administration. Out of the 286 votes cast Jackson received 219, Clay 49 and Wirt 7. South Carolina refused to vote for any of the nominees and cast her eleven ballots for Floyd.

This camgaign shattered forever Henry Clay's Presidential dream. Because of the third-party defection, his defeat was overwhelming. Wirt's candidacy had accomplished that, even though he himself went down in the wreck. After the election the anti-Masonic party went into decline and in a few years had completely dissolved. Wirt, whose willingness to head this organization had been a distinct shock to many of his friends, was himself cast down. His distress over the result of the election was pathetic.

About this time, too, domestic sorrows overtook this old Roman. They were followed by financial losses in Florida. Yet he continued to attend to his legal business in court and

struggled for a few years longer in a vain effort to recoup his fortunes. He was still the premier of the bar, though a new generation of lawyers was coming forward. Roger B. Taney was assuming leadership among the abler young attorneys, and S. Teakle Wallis was beginning his law studies in Wirt's office.

Wirt's death took place in 1834, while attending a session of the Supreme Court in Washington. His passing was as profoundly mourned as was that of any private citizen in all our history. The bench and bar alike united in paying tribute to the great lawyer and advocate. The day following his death the United States Supreme Court adjourned as a mark of respect to his memory. Daniel Webster delivered a memorial address upon Wirt from the bar of that court, and Chief Justice Marshall responded feelingly from the bench.

On the day of the funeral both Houses of Congress adjourned. Such a proceeding had never before been accorded to any other than a member of one or the other house. In the funeral procession were the President, the Vice-President, members of the Cabinet, the Diplomatic Corps and the members of the House and Senate. Around Wirt's bier that day there gathered as illustrious a body of

men as ever assembled at one time on this continent. In that silent concourse stood Jackson, Adams, Calhoun, Van Buren, John Marshall, Story, Clay, Webster, Southard, Taney, Binney, Sargeant, Woodbury, Everett, Cass and Randolph—men of destiny if that may be said of any body of American statesmen.

ROGER B. TANEY

1777—1864

American history may be searched from foundation to capstone, from Washington to Wilson, through and through, and in it will be found no man whose public service was marked by greater strife and stress, by more uncompromising denunciation, by more partisan abuse than was that of Roger B. Taney, fifth Chief Justice of the Supreme Court of the United States.

He was a veritable storm centre from first to last of his long and honored career. As Attorney-General, as Secretary of the Treasury, and even as Chief Justice of the highest court, it was the same. No assault was too merciless to visit upon him. No calumny was too gross to apply to him. No villification was too false to heap upon him, and no baseness too unspeakable to impute to him.

Such were the rancor, the vindictiveness, the bitterness and the enmities of the turbulent period in which Taney lived. He entered public life unknown beyond the confines of his native State. He left it more profoundly hated, more widely execrated, more violent-

ly, yet unfairly stigmatized, than any servant of the republic before or after him.

Time has, however, done ample justice to his memory and has superbly vindicated his public acts. Many of those who blackguarded him have passed along to be forgotten; others lived to retract and recant, while still others have been forced by the relentless judgement of the people to acknowledge the wrongs they committed against this Marylander. History has accorded him an abundant triumph over the impassioned slanders to which he was in life subjected.

Many eminent historians point to Roger B. Taney as the greatest Marylander who ever lived. And this cannot be disputed if greatness is to be determined by the measure of influence a man may exercise in shaping the national destiny. Certain it is that no other son of this State ever had so important a part in the vital affairs of the nation. The character of no other was impressed so firmly upon his time.

The name of this great jurist is linked inseparably with the gravest crises in our national life-crises, that finally led to the dismemberment of the Union and to the bloodiest civil conflict in all time. By a fateful coincidence, too, his first and his last official act of serious

import dealt directly with the issue upon which the States divided. As Attorney-General in the Cabinet of Andrew Jackson, Roger B. Taney stood like a stone wall against the South Carolina nullification ordinance, and the firmness of these two men postponed the break between the North and South for a quarter of a century. Long afterward, as Chief Justice of the Supreme Court, he delivered the Dred Scott decision, a decision that undid the work of Jackson and ended in four years of heart-breaking war.

But these two epochal events do not tell the whole story of Taney. He was the man who stood behind the throne when the Bank of the United States was smashed; the man who, when the issue was joined, became Secretary of the Treasury long enough to take the government money out of the bank—an act which ended the career of that discredited institution. He, too, was the man put forward by Jackson as the defender of the administration's desperate expedient.

Unable to strike down the President himself for these moves against this money power, the enemies of the Jackson regime mustered their forces in the Senate to punish Taney. They rejected his nomination as Secretary of the Treasury, the only Cabinet appointee ever

so dishonored in that body. Then, a year later, the same Senate defeated Taney's nomination as an Associate Justice of the United States Supreme Court, another act of reprisal against the Jackson administration.

Taney's early life gave little promise of the share he was to have in the gravest drama of American politics. He had no passionate ambitions for a political career, no yearning for the struggles and rewards of public office. Urged by his father, he had stood for election as a member of the House of Delegates, shortly after he was admitted to the bar. The second time he ran he was defeated. After his removal to Frederick he served one term in the State Senate. This was in 1816, and was the last elective office which he filled.

Five years before this time Taney had become widely known to the bar of his State, when he appeared as counsel for General Wilkinson, then Commander-in-Chief of the American Army, when that old soldier was tried on a series of charges before a military tribunal convened at Frederick. General Wilkinson had been involved in the treasonable schemes of Aaron Burr, had later turned State's evidence, and had incurred enmities

which resulted in his arraignment before the military court. Wilkinson was acquitted and his sword returned to him. Taney's conduct of this case gave him his first prominence as a practitioner.

Following the deaths of Pinkney and Luther Martin, Taney removed to Baltimore. At that time William Wirt was the ablest lawyer practicing before the Maryland courts. He was yet Attorney-General of the United States, but shortly afterward resigned to give all his time to his private practice in Baltimore. There he found the young Taney his strongest antagonist, a fact to which he testified in many letters preserved by Kennedy, Wirt's biographer.

At this period Taney's one aspiration was eminence as a lawyer. He withdrew entirely from politics and devoted his whole time and talents to his profession. There was but one office in the State that attracted him. He had long been ambitious to become Attorney-General, a position which had been honored by many of the greatest lawyers in the State's history. In 1827 this wish was gratified, when Governor Kent tendered him the appointment.

Three years later, however, Taney was drawn into the whirlpool of national affairs by forces of which he was at the time wholly

unconscious. General Jackson had been elected President in 1828 and had assumed office on March 4, 1829. Within a year he was in controversy with half the members of his Cabinet, and as a result all of them offered their resignations. In the process of forming a new Cabinet, the President freely consulted personal friends, and one of them, Dr. William Jones, a native Marylander, suggested, in a conversation with the Executive, that he knew the very man the President wanted for Attorney-General. "That man is Roger B. Taney, of the Baltimore bar," said Dr. Jones, "he is now the leading lawyer in Maryland and a zealous friend of your administration."

A little later Francis Scott Key, author of "The Star-Spangled Banner" and a brother-in-law of Taney, approached the Marylander with the suggestion that he join the Jackson administration. A few days afterward Secretary of State Livingston in the following letter tendered, on behalf of the Executive, the appointment to Taney:

"Sir, I have great satisfaction in obeying the President's instructions to inform you that he has this day appointed you Attorney-General of the United States, and to ask your acceptance of the office.

"Mr. Berrien will be employed for a few days in arranging the business of the office in order to trans-

fer it to you, should you signify your acceptance, in which case your commission will be made out, ready to be delivered when you shall find it convenient to come on and assume the duties of this office."

In this extraordinary manner began the national career of one of the most interesting characters in all our history. Taney accepted the Attorney-Generalship, the only office under the federal government for which he felt in any degree fitted. It is to be doubted, however, what this course would have been at this turning point in his life, could he have foreseen the enmities, the antagonisms and the venomous billingsgate he was destined to encounter.

Before General Jackson's first term was far advanced, he forced issues upon the two paramount questions then before the country. He announced his determination to resist the nullification movement in South Carolina and, at the same time, his inveterate hostility to the Bank of the United States. And into each of these historic struggles the new Attorney-General plunged with an enthusiasm and loyalty that warmed the heart of the old soldier in the White House.

Calhoun, who had fathered the nullification doctrine in the Senate, basing his defence of it upon the theory that, in as much as the Constitution authorizes three-fourths of the States

to amend or change it, the same Constitution conferred upon three-fourths of the States the right to settle constitutional questions raised between the States and the federal government. By this doctrine he inferred the right of a State to nullify, within its territory, any statute passed by Congress which it deemed unconstitutional. When such an issue is raised, Calhoun contended, it was the duty of the government to refer it to the arbitrament of the States, leaving it to be declared constitutional or not. If constitutional, the State must submit, or else it might secede.

Such a doctrine Jackson, backed by legal adviser Taney, repudiated as one subversive of all federal authority. Realizing, however, the determination with which South Carolina would adhere to the theory of its idol in the Senate, these two men took steps to safeguard the Union. Meanwhile, South Carolina passed its famous nullification ordinance in November, 1832. This document was hurried to Washington, and after it had been digested by Taney and his views upon it had been given to the President, Jackson prepared, with the aid of Livingston, the proclamation embodying in effect, the declaration that, "The Federal Union: It must and shall be preserved." This proclamation electrified the whole country.

In it the soldier-President showed his teeth, set his jaw and gave the South Carolinians a warning so ominous that their retreat to the tall timbers of security was most precipitate.

In his support of Jackson's anti-nullification policy, Taney engaged in his first struggle for the supremacy of the Federal Constitution. It, too, was his first brush with the sectional issue, an issue which he in later years, by judicial act, fanned to a white heat. But the gift of prophesy was denied him, and the share he was to have in the sullen controversy of the next generation could not at this time be revealed to him.

Meantime Taney had before him a crisis more momentous than nullification, in so far as it involved his personal fortunes. He was to become the most conspicuous actor in the death-grapple with the Bank of the United States. It was Jackson's part to declare relentless war upon this institution, but it was Taney's part to lead the campaign of destruction to a successful conclusion.

In his first message to Congress President Jackson announced his uncompromising opposition to the Bank, the organ of the country's money power and an establishment which Alexander Hamilton had created to promote his centralizing policy. For a quarter of a

century this institution had been a leading political issue. It had been twice rechartered by Congress, and in 1836 was expected to apply for another lease of life. Jackson could not feel certain of re-election, and he decided to put the bank out of business while he was yet in power. In this determination he had the unwavering support of his Attorney-General.

In his second annual message to Congress, a message written almost wholly by Taney, Jackson gave to the country the first warning signal of his program, when he said "that such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge whether the public deposits in that institution may be regarded as entirely safe; but as his limited power may prove inadequate to this object, I recommend the subject to the attention of Congress under the firm belief that it is worthy of their serious consideration."

This passage had exposed the secret. Jackson meditated the withdrawal of the government deposits from the bank. The intimation contained in his message came like a thunderbolt from a clear sky. The friends of the institution, in Congress and out, were thrown into a panic of fear. They had not believed

Jackson capable of so daring a move. They could not believe it possible that he would deliberately pull the pillars from under the financial temple. Least of all did they then suspect that the calm but resolute Attorney-General had conceived this scheme and had offered himself as a willing sacrifice in its execution.

But the record is clear. In Tyler's biography of Taney appears a private letter written to the President in 1833, proposing that the deposits of the government be withdrawn from the Bank of the United States, urging that this was the only means of accomplishing the fixed purpose of the administration, and suggesting that Secretary Duane be directed to proceed at once with the program which the Attorney-General outlined. Anticipating that Duane would demur, Taney added this tender of his services:

> "If you should finally make up your mind to adopt the measure, and should find it necessary to call for my services to aid in carrying it into execution, they will be promptly and willingly rendered; and I have though it to be my duty, after what passed between us on the morning of your departure, to give you this assurance."

Under the law, it was within the discretion of the Secretary of the Treasury whether or not government moneys should be deposited in

the National bank or State banks. The President could not remove the deposits, but he could remove the Secretary. Acting upon Taney's proposal, Jackson at once directed Secretary Duane to withdraw all federal funds then in the National bank. Duane refused to take that responsibility, whereupon the President summarily dismissed him from the Cabinet and in the following letter designated Taney to be Secretary of the Treasury:

"Sir: Having informed William J. Duane, Esq., this morning that I have no further use for his services as Secretary of the Treasury of the United States, I hereby appoint you Secretary in his stead, and hope you will accept the same and enter upon the duties thereof forthwith, so that no injury may accrue to the public service. Please signify to me your acceptance or non-acceptance of this appointment.

"I am with great respect, your obedient servant,

"ANDREW JACKSON."

On the 24th day of September, 1833, Taney assumed the duties of Secretary of the Treasury under a recess appointment. Two days later he issued his order for the removal of the deposits. Immediately thereafter the bank entered upon a campaign designed to throw the country into a financial panic. "For months there were the most fearful scenes of dismay and ruin. Commerce became embarrassed. Property became unsalable. The

price of produce and labor were reduced to the lowest point. Thousands and tens of thousands of laborers were thrown out of employment, and many wealthy people were reduced to poverty. And all this distress the bank strove to make the sufferers believe was caused by the removal of the deposits."

When the "Panic Session" of Congress met in the following December, Jackson imposed the duty upon Taney of defending the action of the administration in taking the drastic means of destroying the bank. In a 5,000-word address to Congress, Taney explained and vindicated the President and the Cabinet. This address Benton describes as one of the ablest papers in all the annals of Congress. It did not, however, appease the opposition. Webster, Clay and Calhoun, that triumvirate of giants, united in denouncing the President and his Secretary. Each House of Congress rang with defamatory speeches anathematizing Jackson and Taney and holding them up to the scorn of the people. No such volume of protest and abuse had ever before been heard in the national capitol.

These tirades, however, left Jackson and Taney unmoved. They refused to recede an inch. They believed they had acted for the ultimate good of the country, and did not pro-

pose to be stampeded by the shouts of infuriated legislators.

Just before the session came to an end, however, Congress had its inning. The President, under the law, was forced to send the nomination of Taney to the Senate for confirmation before adjournment came. He waited until the eleventh hour, realizing that the odds were against confirmation. And they were. Webster and Clay had organized a majority to defeat it, and as soon as received it was promptly rejected. That was the first time in history that a President had been affronted by the refusal of the Senate to confirm a member of the Executive household. The day after this action was taken Taney resigned.

The first period of Taney's public service, therefore, ended under unhappy circumstances. But his mortification at the Senate's action was short-lived. The reception accorded him upon his return to Baltimore swept it all aside. No conquering hero was ever more royally welcomed home than was Taney by the people of the State. He was driven into the city in a carriage drawn by eight white horses and was accompanied by thousands of horsemen. Bands of music played; women and children frantically waved their greeting, and the streets were thronged with people

eager to acclaim him. Such was the approval of Taney's course by his fellow-citizens.

The national bank controversy might have been the end of Taney's service to his country but for Jackson's determination to reward the Marylander in some measure for the sacrifice he had made in behalf of the administration. A few months after Taney's return to Baltimore, Gabriel Duvall, himself a Marylander, resigned as an Associate Justice of the United States Supreme Court. Without a day's delay, the President nominated Taney for the vacancy. But there was in the Senate the same hostile majority. Clay and Webster had another opportunity to chasten the administration, and by a skillful maneuver they had Taney's nomination "indefinitely postponed," thereby defeating it. For a second time within a year Taney had sustained rebuff at the hands of this body. John Rutledge was the only other nominee for the Supreme Court who had been denied a seat upon this bench by the Senate.

Before a year had gone by the President seized yet another and greater opportunity to honor his faithful friend and adviser. Chief Justice Marshall died in the summer of 1835, and in the following December Jackson nominated Taney to fill that exalted vacancy.

Meantime, the political complexion of the Senate had changed and, though Clay and Webster prosecuted a relentless campaign against the confirmation, their violent assaults failed. Taney's friends upon the final vote had a majority of fourteen.

When Chief Justice Taney ascended the Supreme Bench of the United States on March 15, 1836, a judicial career without parallel in our history was inaugurated. John Marshall served six years longer than did Taney, thirty-four in all. It, too, was the great Virginian's privilege to plant deeper the principles of constitutional government in our system, but it fell to the lot of Roger B. Taney to deal, as a jurist, with the gravest political problems that have ever forced themselves upon the republic.

To this task Taney brought a profound knowledge of law in all its branches. His practice in Maryland had been broad, embracing common law, equity jurisprudence and maritime law. He was grounded in the substantive no less than in the procedural side of the science. Moreover, "these accomplishments were built upon a character proof against the poisoned arrows of his bitterest enemies and illumined by a mind singularly clear, logical and analytical."

It is manifestly impossible to review within the limits of this sketch all the important decisions of the Supreme Court in which Taney participated. Only those, therefore, having the most direct bearing upon the stirring politics of his time will be alluded to. But before such of them as related to the slavery issue are approached, the Warren Bridge case, because of its effect upon present-day issues, should be briefly cited.

Many eminent lawyers now hold that in this litigation Chief Justice Taney delivered the first anti-trust decision ever rendered by the Supreme Court. Without burdening this article with the facts upon which the Warren Bridge Case was tried, it is sufficient to say that Taney laid down the rule that no corporation may exercise any power as a corporation, except such as is specifically granted by the terms of its charter. The State granting that charter, therefore, may limit the character of the corporation, may prohibit it from engaging in monopolistic enterprises, and may require it to go to the State legislature for every privilege which it exercises. Nothing is, under this decision, granted to a corporation by presumption or implication. State control of its chartered bodies is absolute. Incidentally, this is the first case involving a constitutional

question in which Daniel Webster ever met defeat.

It was with the institution of slavery as it came before his court, however, with which Taney's name will be forever associated. And it was prophetic that the very first opinion which he delivered (United States vs. The Garonne) involved a slave. In a little less than twenty-five years from that time this same Chief Justice rendered the opinion of the court in the celebrated Dred Scott case, one, it is safe to say, fraught with more vital consequences than any ever presented to an Anglo-Saxon tribunal for judgment. And no judge, not even the notorious Jeffries, was ever more ruthlessly assailed than was Taney, because of his part in this litigation.

The Dred Scott decision had been anxiously awaited North and South. The years preceding it had been leading inevitably to a momentous climax. From end to end of the country the warning thunder of a titanic conflict was heard. The Kansas-Nebraskan bill had taken the place of the Missouri Compromise. The two sections were even then fighting desperately for possession of Kansas. The Republican party had been organized, pledged to the abolition of slavery, and four years later was destined to elect a President. In the midst

of this frantic state of party feeling the Dred Scott decree was issued.

Instantly it became the battle-cry of the Free-Soil party. All other issues were subordinated. Unmeasured vituperation was hurled at it and its author. To paraphrase Burke, "reason was driven from her throne and passion usurped her seat." A mighty upheaval shook the country, and before it subsided the North and South had hurled themselves at each other in a war unto the death. The venerable Taney, notwithstanding his high position, was derided and mocked even on the floor of Congress itself. Seward in the Senate, and Stevens in the House, pictured him "as a monster robed in the habiliments of justice," while the lesser defamers shouted in unison.

But this stalwart old jurist breasted the storm. The yelping hounds of politics snarled and snapped and sneered in vain. The lightning flashed about him and the winds hissed in his ears, but they did not move him. His calm dignity withstood every assault. Not even the contempt of the President himself, when Lincoln, in the Merryman *habeas corpus* case, defied the authority of the Supreme Court of the United States, could shake the self-restraint of this Chief Justice. In that famous proceeding, the only one of its kind in all

our history, Taney, still maintaining the supremacy of the civil over the military law, rested his case upon this historical declaration: "I have exercised all the power which the Constitution and the laws confer upon me; but that power has been resisted by a force too strong for me to overcome. I shall, therefore, order all the proceedings in this case transmitted, under seal, to the President of the United States. It will then remain for that high officer, in fulfillment of his constitutional obligation, to 'take care that the laws shall be faithfully executed,' to determine what measures he will take to cause the civil processes of the United States to be respected and enforced."

Taney did not live to enjoy the vindication that has since come to him. He died in 1864, while the country was yet in the throes of civil strife, while sectional passions still were inflamed. He did, however, linger long enough to witness the venomous Seward's recantation. That act marked the turning of the tide, and today this Marylander has undisputed rank with the greatest minds and the truest patriots of our national history.

REVERDY JOHNSON

1796—1876

In approaching the Civil War period of American history, a period more critical than any in the career of the republic, four characters of commanding interest stand out as Maryland's generous contribution to the statesmanship of the time.

Roger B. Taney, Chief Justice of the Supreme Court of the United States; Henry Winter Davis, the most impassioned orator in either branch of Congress; Montgomery Blair, who sat in Lincoln's Cabinet, and Reverdy Johnson, the recognized leader of the Union Democrats in the Senate, composed that illustrious group.

No individual State was more notably represented in the three co-ordinate branches of the federal government during that fateful crisis. And had it not been for the weight of their influence at home, coupled with the force of their leadership at Washington, it cannot be doubted that Maryland would have eventually cast her lot with the Southern Confederacy, vastly strengthening the rebellion and completely isolating the National Capital.

During the long, desperate struggle leading up to open hostilities between the North and South, during the four years of bloody strife, and during the Reconstruction era that followed, Reverdy Johnson was a towering figure. Taney may have hastened the Civil War by his Dred Scott decision; Blair and Davis may have had leading parts in the tragedy of disunion, but neither was a more powerful factor than was Reverdy Johnson in determining the course of our history at this period.

For many years the ablest lawyer at the bar of the Supreme Court, Attorney-General in the Whig Cabinet of Zachary Taylor, twice a member of the United States Senate and a peer in that body of Webster, Benton, Calhoun and Clay, Johnson had become a veteran in national affairs before the war betewen the States eventuated, the war that presented him to the country as the most brilliant, the most resourceful champion of peace and civil liberty then in public life.

And it was his splendid service as an expounder of the Constitution, before the bar of the courts as well as on the floor of Congress, at a time when riotous passion and prejudice sought to distort the meaning of that organic act or to defeat its sacred guarantees, which

entitles Johnson to an enduring place in the annals of our government. At the head of an obstinate, though numerically impotent, minority he fought desperately against the excitement, the distraction, the blind fury which daily threatened to sweep all constitutional law and its safeguards into the limbo of conflicting elements.

In his debates with Sumner, with Trumbull and with Howe on the Senate floor, he resisted with unfailing determination the same tidal wave he had breasted as volunteer counsel for Dred Scott years before. His subsequent appearances before the Supreme Court in behalf of Cummings and Garland and Milligan, and lastly, his defence of Mrs. Surratt, found him battling valiantly on the side of law and reason and justice, under the Constitution, as against fanatical oppression and the usurpation of militarism.

It was this Marylander, too, who saved Andrew Johnson from a verdict of guilty in the impeachment proceedings and the country from the demoralization that would have inevitably followed had the Presidency been vacated. As a reward for this, the Executive appointed his defender Minister to Great Britain to handle the delicate negotiations

arising out of England's unfriendly course during the war.

When Reverdy Johnson was admitted to the Maryland bar in 1816 a few of the Old Guard lawyers yet remained upon the scene. William Pinkney was dividing his time between the courts and the Senate; Luther Martin had just reached the zenith of his career; William Wirt was rapidly forging to the front, and Robert Goodloe Harper had not yet reached his decline. Gabriel Duvall and Samuel Chase had withdrawn from active practice to take seats upon the Supreme Court of the United States. Roger B. Taney was just rising to a position of prominence.

There were giants at the bar of Maryland in those days. No State, before or since, has produced at a given time a battery of legal talent more transcendingly brilliant. Thus surrounded, the heart of young Johnson was fired by a mastering ambition to one day take rank with the great lawyers and powerful advocates who had given a nation-wide renown to his State. He opened his first law office at Upper Marlboro, and a few years later he was named as an assistant Attorney-General of the State. In 1817 he moved to Baltimore, where

he early attracted the attention of attorneys and litigants.

After serving for a short time in the State Senate, Johnson came prominently before the people by his connection with the Bank of Maryland, an institution that failed in 1834, plunging the whole community into a panic and involving the reputations of many of the leading citizens of the city and State. The story of this failure is told in the sketch of General Samuel Smith, printed in a previous chapter. Johnson, as counsel for the bank, was held responsible by many people for its disastrous transactions. While popular indignation was at its height his family were driven from the city, his home wrecked and he himself temporarily banished. This storm soon cleared away, however, and his personal probity was re-established. The State, by act of the legislature, indemnified him for his losses.

So sweeping was Johnson's vindication that in 1845 he was elected to the United States Senate by an overwhelming vote. And from the date of this election Johnson's career belongs to the nation rather than to his State. He had, even then, assumed a station of primacy at the bar as the worthy successor of his earlier contemporaries. As soon as he entered the Senate he leaped into prominence by his

masterly treatment of the constitutional questions then uppermost in the public mind.

War with Mexico was about to be declared; the annexation of Texas was being pressed by a powerful following of the Polk administration; nullification as championed by the unconquerable Calhoun was agitating the country; the Oregon question was still unsettled, and the first serious slavery issue was being debated by each branch of Congress. This was the state of the Union when Reverdy Johnson appeared for the first time upon the national stage.

Bernard C. Steiner, in his review of Johnson's life, ably sums up the Maryland Senator's activities at this time. He says:

"Johnson's first important speech was upon the Oregon question, and was made in 1846. In it his eloquence was directed to an attack upon the administration, but two months later, Johnson broke from his party, declared that he believed a state of war existed between Mexico and the United States, and that the territory of the United States had been invaded. He would have voted against the annexation of Texas, but did not think his country was the aggressor in the war. The war was not begun to annex territory, and his acute mind foresaw that the questions 'likely to arise on the admission of any new territory' might 'cause the Union to totter to its very foundations.' He also opposed on constitutional grounds 'any clause prohibiting slavery in territory which may be acquired,' as the States are

equal in all respects, and consequently the citizens of slave States should not be prohibited by Congress from settling with their slaves in acquired territory. He was not a pro-slavery man, however, but said, 'I have ever believed, since I was capable of thought, that slavery is a great affliction to any country where it prevails.' "

In 1848 Zachary Taylor was elected President. That old hero had been taken up by the Whigs. With the glamour of a successful war about him and the follies of the Polk administration as an issue, he swept the country. In the process of forming a Cabinet the new President, himself unfamiliar with the career of public men or the course of public events, was advised to name Johnson Attorney-General. Though the Marylander was but an eleventh-hour follower of the Whig standard, his selection was a fortunate one for the wholly uninitiated Executive. The new official brought to the incoming administration a mind as acutely balanced and a comprehension of constitutional problems as broad, perhaps, as could be found North or South. When Taylor died, a year later, Johnson forthwith resigned his portfolio, and what might have been a splendid Cabinet record came to an untimely end.

Retiring to private practice after this comparatively brief season at the seat of govern-

ment, Johnson did not reappear before the country until 1854, when he, without fee, became counsel for Dred Scott in a case that has no parallel, in the weight of its consequences, in all American history. Twice this cause was heard by the United States Supreme Court, and each time the burden of the defence rested upon Johnson, though Senator Geyer of Missouri, himself a native Marylander, supported Johnson. Opposing them were Montgomery Blair, of Maryland, and George Ticknor Curtis.

Johnson won a notable victory when Chief Justice Taney delivered the opinion of the Court, sustaining every important contention Scott's counsel had presented. But it was a triumph for which the country paid dearly in the succeeding years. The unreasoning resentment aroused among the anti-slavery people by this decision has already been discussed in the sketch of Chief Justice Taney. Around that jurist a storm broke which did not subside until the Union had been wrecked and the country had been reddened with fratricidal blood.

In the hope of averting the calamity of civil war, however, one last desperate expedient was resorted to when, early in July, 1861, a Peace Commission was proposed by Con-

gress, with authority to negotiate with a similar body from the Southern States. On this commission one member of Congress from each State was to be appointed and, in addition, seven eminent citizens, among whom were the three living ex-Presidents of the United States. The citizen commissioners were Millard Fillmore, of New York; Martin Van Buren, of New York; Franklin Pierce, of New Hampshire; Edward Everett, of Massachusetts; Thomas Ewing, of Ohio; James Guthrie, of Kentucky, and Reverdy Johnson, of Maryland.

About the same time Governor Hicks appointed Johnson as one of the five delegates from Maryland to the Peace Congress to be held in Washington. He was later named by that Congress upon a committee of one from each State to consult upon any means they might "deem right, necessary and proper to restore harmony and preserve the Union." Though an anti-slavery man at heart, Johnson firmly believed in the constitutional protection due that institution, and he labored feverishly in an effort to bring about peace by orderly processes. But it was too late. Compromises were no longer possible. All the peace movements met failure. War, and war alone, was to be the arbiter.

Meanwhile Johnson had allied himself with the Democratic party, had supported Douglas for the Presidency, but, with the election of Lincoln, had thrown himself into the Union cause. And to stem the tide in the State then running dangerously toward disunion, he stood for election to the Maryland House of Delegates. After a bitter fight in that body Johnson and his associates overcame the secessionists, holding Maryland firmly in the Union column. The successful issue of this contest resulted in Johnson's second election to the United States Senate, after an interval of thirteen years.

Immediately upon his arrival in Washington Johnson assumed, by common consent, the leadership of the conservative forces in Congress. Partisanship there was rampant. The extremists were in the ascendency. The rancor, the vindictiveness, the prejudice which culminated in the proscriptions, the disfranchisements and confiscations of the Reconstruction period, were enjoying the fullest license even at that early stage of the war. Against this wave Johnson steadied himself, invoking the Constitution and the principles of common justice against the excesses practiced in the name of the "war powers of government."

He led this reactionary movement on the floor of the Senate and was met by overwhelming resistance. Failing there to curb oppression, he carried his fight, as a volunteer defender of constitutional liberty, before the Supreme Court itself.

Johnson appeared in the four famous cases of this time, each involving the penal restraint of civil liberty or the legality of military commissions, then seeking to usurp the functions of established courts of justice. He went to the rescue of Mrs. Surratt, who was being tried for her life on the charge of complicity in the assassination of Lincoln, before a military commission. His brief in that case, though unavailing, was an unanswerable indictment of the mode of procedure by which this unfortunate woman was deprived of her right to a fair and impartial trial.

It was in the course of this proceeding that Senator Johnson was subjected to as brutal and gratuitous an insult as was ever heaped upon a man of his years and honors by a civilized tribunal. And this humiliating experience, reflecting as it did upon his patriotism and loyalty to a government to which he had given all that mortal man could give, rankled in his stout old heart to the end of his days.

When Johnson presented himself at the bar of this high-handed court as counsel for a helpless and friendless woman, about to be judicially murdered, he was immediately confronted with an objection "to his admission as counsel before this court, on the ground that he did not recognize the moral obligation of an oath that is designed as a test of loyalty." In support of this objection the fact was cited that he had more than a year before addressed a letter to the people of Maryland, pending the adoption of their Constitution, giving his views as to the character of oath which that instrument might properly exact. This deliberate aspersion had no sooner reached its mark than the venerable, gray-haired statesman and lawyer turned, with blazing indignation, upon the military martinets who had accused him, declaring:

"No member of this court recognizes the obligation of an oath more absolutely than I do, and there is nothing in my life, from its commencement to the present time, which would induce me for a moment to avoid a comparison in all moral respects between myself and any member of this body.

"I have taken the oath in the Senate of the United States," continued this brave old fighter, "the very oath you are administering here; I have taken it in the Circuit Court of the United States; I have taken it in the Supreme Court of the United States; and I am a practitioner in all the courts of the United States,

in nearly all the States. And it would be a little singular if one who has the right to appear before the Supreme Judicial Tribunal of the land, and one who has the right to appear before one of the legislative departments of the government, whose law creates armies, creates judges and courts-martial, should be denied the right to appear before this court-martial."

The military judges yielded, under this withering rebuke, and consented to the appearance of the Marylander. This trial revived the grave issue of military despotism, the same issue that was involved in the *Ex Parte* Milligan case, which Johnson argued before the Supreme Court in 1866. In this he and his associates overturned the lawless policy of the administration in suspending the writ of *habeas corpus* under the guise of martial law. Milligan, a peaceful citizen of Indiana, had been arrested by Secretary Stanton's spies, charged with disloyalty to the Union, was tried before a military tribunal and sentenced to death. He appealed to the United States courts, and when his case finally reached the Supreme Court, the petitioner was defended by Johnson, Joseph E. McDonald, Jeremiah S. Black, James A. Garfield and David Dudley Field. Opposing this phalanx were Attorney-General Speed, Former Attorney-General Stansbury and Benjamin F. Butler. After

a full hearing the Court overruled the military proceeding and set Milligan free.

A little later Johnson took up the cause of the Rev. Father Cummings, a Catholic priest of Missouri, who had been thrown into jail because he had undertaken to preach the Gospel without having taken the "oath of loyalty." Johnson, Field and Montgomery Blair presented the Cummings case to the Supreme Court. John B. Henderson and G. P. Strong led the prosecution. The Court here held that in proscribing this oath the State of Missouri, in effect, had tried to inflict punishment by attainder, an act clearly in violation of the Federal Constitution. The same great question was involved in the *Ex Parte* Garland case, which Johnson, again without remuneration, presented to the Supreme Court. In this the *Ex Post Facto* oath was once more declared unconstitutional.

These triumphs were splendid tributes to Johnson's acumen as a profound interpreter of constitutional law. They were, however, more creditable to him because of the abiding patriotism which prompted him to take up, without thought of reward, the cause of civil liberty. And the same passion for simple justice to all interests, whether those interests were in rebellion against the government or

were exhausting the resources of a nation to restore the Union, marked the whole of Johnson's career in the Senate. He was in conflict almost daily with the uncompromising Sumner. He measured swords with Fessenden and dared to controvert the ablest of them all, Lyman Trumbull. These discussions were, however, mere skirmishes in comparison with the great debate on the Reconstruction policy staged in the Thirty-ninth Congress, when Johnson dramatically defended the doctrine of State vitality against the powerful assault of Timothy O. Howe, of Wisconsin. This, the most stirring debate of its time, is graphically reviewed in "Three Decades of Federal Legislation," by "Sunset" Cox. Of it, he says:

"The leading contestants in this debate were two Senators of very different types. The Senator from Wisconsin, Timothy O. Howe, was in the same class of the *genus homo* as William H. Seward and Simon Cameron. He was tall, thin, pallid as death and immovable in his restful and unimpassioned habitudes. How unlike the sturdy and fervid Marylander, Reverdy Johnson, who so triumphantly replied to his dialectics. Other men have been more praised than Timothy O. Howe, but other men never deserved more encomium than he from his side of this great argument. But when the Marylander brought his interrogative skill into the arena, his rapier pierced the heart of the contention at every thrust. The parrying of the Wisconsin Sena-

tor was adroit, but the cunning fence and the courage of conviction of the Marylander were resistless.

"To complete the surroundings of such a momentous contest, one would wish for the picturesque pencil of Macauley. There is no equal for graphic style of that scene in the High Court of Parliament, when the Peers sat in the great hall of William Rufus 'to try an Englishman for tyranny over the holy city of Benares, over the ladies of the princely house of Oude.' True, no such garniture of traditions had gathered about the new Senate Chamber, but here in our State House the fate, the condition, the contumacy and the so-called crime of many republics is in grand inquest. Members of the House of Representatives, since eminent at home and abroad, flocked to the Senate to hear Senator Johnson reply to the superb speech made the day before by the Wisconsin Senator. The prayer is offered; the journal is read; petitioners, reports, bills and a dull debate about assessors are listened to impatiently. Some words from Senator Anthony are heard, then a vote is had. Now a sharp rap is heard from the President Pro-Tempore. He calls up the great problem of the provisional government and of the vitality of the States. The Senators settle themselves in their chairs. They are intent to catch each syllable. On the left of the chair sit the few Democrats remaining in that august body. Buckalew, Hendricks, Nesmith, Garrett, Davis, Stockton and Guthrie are about all of the old party regulars left. But what new Senators are these, now anxiously waiting to hear the accents of the grand Marylander? Doolittle, Brown, Dixon, Cowan and Trumbull, so soon to become giants in those fierce and fervent days, are ready to accept the new situation as champions of Andrew Johnson's administration for the unimpaired energy of Statehood. Senator Johnson's re-

ply was a masterly elucidation. It set forth the Democratic doctrine respecting the constitutional status of the States that had attempted to secede from the Union and must appear unanswerable to every unprejudiced reader."

Johnson had broken with the Lincoln administration soon after he entered the Senate. He could not tolerate the crimes that were committed in Lincoln's name, and went bodily over to the Democratic party. His condemnation of the reign of militarism is shown in his appearances before the Supreme Court against the practices of the satraps of the Stanton regime. After Lincoln's death and Andrew Johnson's succession to the Presidency, the Senator favored strongly the new administration's plan of reconstruction. It was in defence of this plan that he met and defeated Howe in the debate just referred to. Moreover, the Marylander upheld the power of removal from office which the President refused to surrender and the exercise of which, in defiance of Congress, resulted in the impeachment proceedings.

Senator Johnson was the President's savior in this the most momentous trial, civil or criminal, in American history. From first to last the burden of the Executive's acquittal rested upon the willing shoulders of the Maryland

statesman. It was he who led the fight against Senator Wade's participation in the vote. It was he who, when Senator Grimes wavered out of fear that the President if left in office would commit some rash act, arranged a private conference between Johnson and Grimes that brought three doubtful members into line. It was he who filed an opinion with the Senate in defence of Johnson, to which no conclusive answer was ever made.

And when the crucial vote arrived on the first article of the impeachment, it was Reverdy Johnson who produced from a sick bed the one vote needed to prevent a verdict against the President. Senator Grimes was not on the floor of the Senate when the roll-call was ordered. It was known that he was ill, and for a brief moment it seemed that the case of the defence was hopelessly lost. The fact of Grimes' absence was noted, but Senator Johnson suddenly rose in his seat, declaring: "The Senator is here. I have sent for him. He is now downstairs. He will be here in a moment. He is here." And in a moment the sick man reached the chamber—reached it in time to cast the nineteenth vote against conviction. That vote saved Andrew Johnson.

A year later Charles Francis Adams asked for his recall as Minister to Great Britain,

and immediately the President appointed Johnson to the vacant post. He was unanimously confirmed, proceeding without delay to London with a commission to negotiate three treaties with England, viz.: One granting to the United States the right to naturalize British subjects; another defining the boundary between Vancouver's Island and the United States, and a third providing for an adjustment of all claims arising out of Britain's failure to remain neutral during the Civil War.

Johnson's diplomatic mission was not fortunate. He was now beyond the age of 70 years and, while still robust of mind and vigorous of body, he had undoubtedly seen his best days. His Alabama Claims treaty was wholly unsatisfactory to the Senate and was rejected after an unfavorable report had been unanimously made by the Foreign Relations Committee. He retired from London shortly after Grant's inauguration, bringing his long record of public service to a close.

While on a visit to Governor Carroll at Annapolis, early in 1876, Johnson fell from an open window in the Executive Mansion and when found was dead from a fractured skull. His death removed one of the strongest characters Maryland has even given to the country —a giant at the bar and in the forum, a Roman worthy of any State.

HENRY WINTER DAVIS

1817—1865

It is a happy commentary upon our system of government that the nation has found leadership of ample strength to cope with every crisis through which it has passed. The emergency and the relief, the problem and the solution, the hour and the man have never failed to meet.

This has never been more pronounced than in the deadly struggle between the States. That war, which for four long, tragic years threatened the disruption of the American Union, not only developed a longer line of military genius than any civil conflict in all history, but it brought into relief a type of statesmanship as virile as this or any other country has ever given to the world.

The Republic owes an incalculable debt to the martial heroes of the Civil War, but it owes no less an obligation to that body of men who, in the halls of Congress and in the executive departments, battled as honorably and as bravely to save the Union from suicide. Without their determination and their patriotic

support the victories which the armies achieved in the field would have been impossible.

Thousands there were who sacrificed their lives to maintain a principle. Other thousands, removed from the scenes of blood and agony and death, labored with feverish energy to the same end. But from first to last, the cause of the Union had no bolder defender, no more fearless tribune than Henry Winter Davis. He dedicated to that cause an intellect sweeping in its splendor, and a voice as fervidly eloquent as any ever raised in a legislative body.

The career of this Marylander was meteoric in its brilliancy. Eight short years of Congressional service elevated him from a position of obscurity to that of the most dangerous debater and the most gifted orator in the land. Had he been blessed with length of days he would, in the judgment of no less an authority than James G. Blaine, "have left the most splendid name in the parliamentary annals of America."

One of the organizers of the American party, Davis was first elected to the House of Representatives in 1854 upon that ticket. He was re-elected in 1856 and in 1858. He returned to that body for two years in 1863. A Southern man, he faithfully championed the

interests of the South until those interests resolved upon dismemberment. From that hour he became the arch-enemy of secession and secessionists, devoting himself with impassioned zeal to the preservation of the Union.

To Davis, above all other men, was due Maryland's loyalty during this reign of disorder and distraction. His relentless campaign in that State against disunion called forth a vote of bitter censure from the Democratic Legislature. He replied in an address, "which for eloquence, force and conclusiveness of reasoning is entitled to rank in the political classics of America as the Address to the Electors of Bristol ranks in the political classics of England."

Though a Unionist, uncompromising and unconqerable, Davis was, in the House, as passionate an advocate of civil liberty as was his colleague, Reverdy Johnson, in the Senate. He inveighed with a tongue of fire against the tyranny of militarism and the abuse of power by an autocratic regime. Nor did he hesitate, while restoration was in progress, to defy the great Lincoln himself, when, as Chairman of the Committee on Rebellious States, he denounced the President's Reconstruction Proclamation "as a blow at the friends of the

administration, at the rights of humanity, and at the principles of republican government."

In many respects the early life of Henry Winter Davis was a counterpart of that of another distinguished Southern Marylander, William Wirt. Each of them was left an orphan before the age of maturity; each received his education through the sacrifices of kindly relatives; each began the practice of law in Virginia, and each, by reason of an attractive personality and a certain warmth of good-fellowship, surrounded himself with a group of devoted admirers. Here the parallel ends, however. Wirt remained in Virginia until he had written his name in bold letters across the history of his country. Davis soon returned to Maryland soil to establish himself at the Baltimore bar, and from there to enter the Congress of the United States.

It is a rather remarkable circumstance that Davis held but one political office during his life, and perhaps more remarkable that he was a candidate for but one. His friends urged him for the United States Senate when Reverdy Johnson was elected in 1863, but there is no record that the younger man gave any encouragement to the movement. He was con-

tent to build his monument in the House of Representatives. And the monument he reared is one that will endure as long as men do honor to intellectual prowess or revere patriotic endeavor.

Many able Marylanders have attained high station in the lower house of Congress. Nicholson, Chapman, Samuel Smith, Mercer, Duvall, Kent, Bowie, Pinkney, McLane, Calvert, Creswell, Swann, McComas, Rayner and many others were given conspicuous rank there, yet none of them enjoyed the power wielded in his day by Henry Winter Davis. By the force of his leadership the law of the nation was in a large measure molded, and by the same token his was the only name of a Maryland statesman ever placed in nomination for Speakership of that body.

Shortly after Davis removed to Baltimore in 1850 he allied himself with the Whig party and made a series of speeches in the Scott campaign of 1852. This old but ill-fated organization was soon to pass. It had weathered many storms and suffered many defeats. It had failed to keep abreast of the new issues which were forcing themselves upon the attention of the people, and was soon gathered to the fathers.

Upon the ruins of the Whig party there rose a new order. The Native American party, afterward the American, and still later known as the Know-Nothing organization, enjoyed a period of widespread popularity immediately preceding the rise of Republicanism. This movement was sporadic and, like anti-Masonry, "its soap-bubble burst in the effort to blow up to the size of a Presidential factor." During its brief career, however, it served as a refuge for a large fraction of the people who opposed Democracy, who had lost faith in the Whigs and who were not bold enough to unite with the Republicans—people who were, in effect, political orphans.

In the beginning, that is, about 1843, the Native American party had its birth in the municipal contests of New York and Philadelphia. They revived the bitter spirit of intolerance against the Roman Catholic Church and organized themselves into secret bodies to oppose all foreigners who ventured into politics. Outrages were committed against the Catholic church in half a dozen cities; priests were hounded, and even the sanctity of nunneries was violated.

The early plan of the Native Americans was to pick candidates of the older parties for support. As the movement spread and gained

strength, however, a "council" of local lodges was authorized to name regular party tickets. As early as 1845 the Native Americans elected Lewis Charles Levin a member of Congress from Philadelphia. By 1850 the Native Americans were strongly intrenched in such cities as New York, Baltimore, New Orleans and Cincinnati, and were pushing a well-defined propaganda.

Two years later Henry Winter Davis and a few bold spirits went over to the Native Americans, changed the name to the American party, and at once proceeded to nationalize it. By reason of the secrecy of the organization and the refusal of its members to discuss its plans or principles, the party became commonly known as Know-Nothings, a title that pursued it until its end.

Davis' affiliation with the Know-Nothings was undoubtedly influenced by the broader purposes which the party comprehended at this time. The Grand Council at its Cincinnati meeting had resolved that the American followers should be neither pro-slavery nor anti-slavery; that the party should stand irrevocably for the Union; that it should have no geographical limitations, and that it should appeal to the conservatives of the North and South alike. Such a position coincided exact-

ly with the early views of Davis. He was opposed to slavery as an institution, but did not believe it could be abolished in America through the medium of any political party or political revolution. Radicalism, he believed, would divide the States and end in war.

For these reasons Davis plunged with enthusiasm into the reorganization of the Native Americans. In 1854 the new order achieved notable successes, particularly in Massachusetts and Delaware. Henry J. Gardner was elected Governor of the Bay State, the first State-wide fight which the new party had won. A similar victory crowned their campaign in Delaware. Fusion in New York prevented the Know-Nothings from winning there. Pollock was, however, elected on a combination Know-Nothing and Whig ticket in Pennsylvania, and in many other States the Americans triumphed in local fights.

The results of the 1854 campaign fired the ambition of the Know-Nothing organization. The leaders of the party believed that it was one of destiny, and immediately laid their plans to capture the Presidency in 1856. Fillmore, Houston, Clayton and Bell were brought forward as possible candidates. Thousands of old Whigs rushed to its standard. Other thousands of Southerners, who feared the rise of

the new Republican party or distrusted the friendship of the Northern Democrats, went over to Know-Nothingism as a shelter in a national emergency.

The rising tide of the new party continued through the spring elections of 1855. Even New Hampshire, President Pierce's own State, elected an American party candidate Governor. Connecticut did the same thing, as did Rhode Island. The Free Soil party in many sections amalgamated with Americans, while in both Maryland and Virginia the strength of the new party was manifest in the local campaigns.

In February, 1855, the Know-Nothings held their first national convention in Pittsburgh. Millard Fillmore was nominated for the Presidency and Andrew J. Donelson, of Tennessee, for the Vice-Presidency. The only platform or public announcement that was made was contained in the slogan, "America for Americans." The Democrats nominated Buchanan, and the Republicans Fremont, in the same year. The failure of the Know-Nothings to take a stand upon the slavery issue proved fatal to the hopes of their leaders. Buchanan was overwhelmingly elected, Maryland alone casting its electoral vote for Fillmore.

The victory in Maryland for the American party was the result in large measure of the brilliant campaign made by Henry Winter Davis. He had been elected to Congress the first time two years before, as a Know-Nothing, and was himself a candidate a second time on the same ticket. He was the party's recognized leader in the State, and his success in capturing it for Fillmore gave him a prominence that was nation-wide. He himself was re-elected by an increased majority, becoming at once the leader of the Know-Nothings in the House and their candidate for the Speakership.

With the defeat of Fillmore in 1856 the decline of the American party began. The passions of the people had been so aroused over the repeal of the Missouri Compromise and the Kansas-Nebraska feud that no political organization without convictions upon the slavery question could survive. This issue became paramount to all others, regardless of the pacific attitude of Buchanan and the broad nationalism upon which he projected his administration. The Know-Nothing organization lived through one more campaign, in which Davis was for a third time elected to the House. Then it evaporated.

Davis' work in the Thirty-fourth and Thirty-fifth Congresses was important only as it prepared him for bigger and finer service in later years. Almost immediately after his first election he leaped to the forefront of the House membership as an orator. "He boldly presented himself before the most rigorous tribunal in the world, and he proved himself worthy of its favor and its attention." When he addressed the House he filled every gallery and every seat on the floor. He hoped in vain for some peaceful solution for the problems which centered about the slavery issue, and his appeals for moderation in approaching the crisis were worthy of the best days of the Republic.

It was in the second session of the Thirty-sixth Congress that Davis became a most important factor. By that time the nation was in a state of acute alarm. The winds of dissension had been sown and the whirlwinds were soon to be reaped. The clouds of civil war were lowering, dark with ominous warning. President Buchanan had sent in his famous message, declaring that the national government had no power to coerce a State. The South was daring in its demands for a complete surrender of all opposition to slavery. The North was determined and uncompromis-

ing in its purpose to resist such surrender. In this deadlock, secession once more raised its head.

The strong men of each house of Congress realized that the situation was desperate. They felt that any expedient was justified that would conciliate the South, on the one hand, and placate the North, on the other. And in a last hope of saving the Union, without resort to arms, special committees were raised in both the House and Senate. In the House the Committee of Thirty-three was named, upon which sat the ablest man from each State. Henry Winter Davis represented Maryland. A series of compromises and concessions was proposed by this body. They were, however, as ill-fated as were every other movement designed to appease the wrath of the two sections.

Davis supported the report of this committee in one of the ablest speeches in his career. It was, however, a speech that raised a storm of protest in Maryland and one, because of its audacity and fearlessly proclaimed militancy, cost the orator his seat in Congress and threatened for a time to bring his political life to an untimely end. In the course of this address Davis said:

"I do not wish to say one word which will exasperate the already too much inflamed state of public mind, but I will say that the Constitution of the United States, and the laws made in pursuance thereof, *must be enforced;* and they who stand across the path of that enforcement must either *destroy* the *power* of the United States, or it will *destroy them.*

"But, sir, there is one State that I can speak for, and that is the State of Maryland. Confident in the strength of this great government to protect every interest, grateful for almost a century of unalloyed blessings, she has fomented no agitation; she has done no act to disturb the public peace, she has rested in the consciousness that if there be wrong, the Congress of the United States will remedy it, and that none exists which revolution would not aggravate.

"But, Mr. Speaker, I am here this day to speak, and I say that I do speak for the people of Maryland, who are loyal to the United States. When my judgment is contested, I appeal to the people for its accuracy, and I am ready to maintain it before them.

"In Maryland we are dull and cannot comprehend the right of secession. We do not recognize the right to make a revolution by a vote. We do not recognize the right of Maryland to repeal the Constitution of the United States; and if any convention there, called by whatever authority, under whatever auspices, undertakes to inaugurate a revolution in Maryland, its authority will be resisted and defied in arms on the soil of Maryland, in the name and by the authority of the United States."

In this speech Davis had declared that the people of Maryland were loyal and he had given his pledge to maintain that loyalty. And the occasion soon came for him to redeem that

pledge. In January, 1861, the flag of the United States was fired upon. In February Jefferson Davis announced that war was inevitable. On March 4 Lincoln was inaugurated, and in his inaugural address issued his final appeal to the South. On April 14 the President issued a proclamation calling for an extra session of Congress. This rendered a special election in Maryland necessary, and before the end of that day Henry Winter Davis issued the following announcement:

"To the Voters of the Fourth Congressional District of Maryland:

"I hereby announce myself as a candidate for the House of Representatives of the Thirty-Seventh Congress of the United States of America, upon the basis of the *unconditional maintenance of the Union.* Should my fellow-citizens of like views manifest their preference for a different candidate on that basis, it is not my purpose to embarrass them."

The contest then inaugurated was one of the most memorable in the history of the State. Henry May, upon a Conservative Union platform, opposed him. "In the face of an opposition," said Senator Creswell a few years afterward, "which few men have dared to encounter, he carried on, unremittingly from that time until the election on the 13th of June, the most brilliant campaign against open traitors, doubters and dodgers, that unrivaled elo-

quence, courage and activity could achieve. Everywhere, day and night, in sunshine and storm, in the market-house, at the street corners and in the public halls his voice rang out clear, loud and defiant for the 'unconditional maintenance of the Union.' He was defeated, but he sanctified the name of unconditional Union in the vocabulary of every true Marylander." He gathered 6,000 votes out of 14,000, and exclaimed to a friend that "with 6,000 of the workingmen of Baltimore on my side, won in such a contest, I defy them to take the State out of the Union."

Though defeated, Davis was not deterred in his efforts to keep his State in the loyal column. He prosecuted his fight month by month, county by county, in season and out. In a speech delivered at this time in Brooklyn, New York, he said: "You see the conflagration from a distance; it blisters me at my side. You can survive the integrity of the nation; we in Maryland would live on the side of a gulf, perpetually tending to plunge into its depths. It is for us life and liberty; it is for you greatness, strength and prosperity." In answer to taunts from the Southern sympathizers over the battle of Bull Run, Davis, in one of his speeches, said: "The War Department has been taught much by misfortune at

Bull Run, a misfortune which has broken no power nor any spirit, which has bowed no State nor made any heart falter, which was felt as a humiliation that has brought forth wisdom." Referring to the rebels in the State and foretelling his own fate, if they won the day, he said: "They have inaugurated an era of confiscation, proscriptions and exiles. Read their acts of greedy confiscation, their law of proscriptions by the thousands. Behold the flying exiles from the unfriendly soil of Virginia, Tennessee and Missouri!"

During the two years Davis was out of public office he successfully waged the fight to hold his State in the Union, and the even harder fight for the emancipation of slavery. He made a second series of ringing speeches all over the State, and headed the Unconditional Union-emancipation forces through the Legislature which had previously denounced him because of his speech in Congress, through the contest for delegates to the Constitutional Convention, through the fight for the adoption of the Constitution proposed by the convention, and lastly through the Court of Appeals, before which tribunal the whole proceeding was contested. In every move he was triumphant, and in 1863 his State, without serious

opposition, sent him back to the federal House of Representatives.

The two years following this election were crowned with Davis' most conspicuous work as a legislator. He allied himself with the Republican majority, and as head of the Committee on Rebellious States dealt with the most important problems of the time. He fathered the "one-tenth" plan of reconstruction, also an amnesty proposal which mitigated the severity of the test-oath. And though he stood stanchly with the majority in many of the fiercest contests in Congress, he ranged himself squarely against the administration when he found the dominant element in the wrong. This independent attitude was shown with great force in the fight against the military incarceration of loyal citizens. This was the most dramatic situation in which Davis figured as a leader of the House.

The question of incarceration came up in the second session of this Congress upon a resolution directing the Committee on Military Affairs to find out why hundreds of peaceful citizens were held in the Old Capitol and in the Carroll prisons upon the mere order of the Solicitor of the Treasury. The resolution passed. Taken by surprise, Thaddeus Stevens moved to reconsider. A violent debate there-

upon followed. Henry Winter Davis then took the floor. "He placed the matter on the highest ground," says "Sunset" Cox in his "Three Decades of Federal Legislation." Continuing, Cox says of Davis:

"He demanded that the committee examine the facts and spread them before the American people and let them say whether there exists any law that authorizes the confinement of any American citizen not in the military service, in a loyal State, upon the judgment of a military commission, or, without judicial sanction, at the pleasure of subordinate officers of the government, or even by order of the President himself.

"This was bold ground," continues Cox. "It is worthy of the parliamentary heroism in the time of the Stuarts and their prerogative. It was audacious, especially for a member of the dominant and arrogant party. General Garfield raised his voice in indignant protest. He, too, was hailed as a friend of civil liberty. The debate had taken even more significent form at the beginning of the session. Henry Winter Davis rose then to the height of a grand argument in favor 'of the right of every citizen to his personal liberty.' It was he who had offered the section cited by General Garfield in the Milligan case as an amendment declaratory of our Bill of Rights. He held that on it depended the very endurance of republican institutions. When the bill came back from the Senate without that section, Davis said that no money should be appropirated with his consent, at the expense of so grave a reflection upon the fundamental principles of the government. This was the climax of a long debate and came not a half-hour before the death of that

Congress. The wildest passions were rife. The bill failed. Henry Winter Davis scorned to yield even for the passage of some charities in it. Amidst the wildest applause the three years of arbitrary arrogance and flagrant violation of our Magna Charta was buried beneath the reprobation of the American House of Representatives. What a triumph an earnest. liberty-loving minority may achieve, if bravely led and inspired with a profound and intelligent love of liberty!"

It was about this time that Davis delivered what is regarded by many of his contemporaries as the greatest speech of his life. The Union armies had failed time and again to take Richmond or to maneuver successfully against Lee's strategy. Hundreds of thousands of lives had been sacrificed in a vain attempt to crush the rebellion. It was evident that this end could only be accomplished at the cost of another ocean of human blood. As a consequence, a call was made on the floor of the American Congress for a recognition of the Southern Confederacy, a surrender. Davis' vibrant answer to this proposal was, in part, as follows:

"But if it be said that a time may come when the question of recognizing the Southern Confederacy will have to be answered, I admit it. When the people, exhausted by taxation, weary of sacrifices, drained of blood, betrayed by their rulers, deluded by demagogues into believing that peace is the way to union, and submission the path to victory, shall

throw down their arms before the advancing foe; when vast chasms across every State shall make it apparent to every eye, when too late to remedy it, that division from the South is anarchy at the North, and that peace without Union is the end of the repulic, then the independence of the South will be an accomplished fact, and gentlemen may, without treason to the dead republic, rise in this migratory House, wherever it may then be in America, and declare themselves for recognizing their masters at the South rather than exterminating them. Until that day, in the name of the American nation, in the name of every house in the land where there is one dead for the holy cause, in the name of those who stand before us in the ranks of battle, in the name of the liberty our ancestors have confided to us, I devote to eternal execration the name of him who shall propose to destroy this blessed land rather than its enemies.

"But, until that time arrive, it is the judgment of the American people there shall be no compromise; that ruin to ourselves or ruin to the Southern rebels are the only alternatives. It is only by resolutions of this kind that nations can rise above great dangers and overcome them in crises like this. It was only by turning France into a camp, resolved that Europe might exterminate, but should not subjugate her, that France is the leading empire of Europe today. It is by such a resolve that the American people, coercing a reluctant government to draw the sword and stake the national existence on the integrity of the republic, are now anything but the fragments of a nation before the world, the scorn and hiss of every petty tyrant. It is because the people of the United States, rising to the height of the occasion, dedicated this generation to the sword and pouring out the blood of their children as of no ac-

count, and vowing before high heaven that there should be no end to this conflict but ruin absolute or absolute triumph, that we now are what we are; that the banner of the republic, still pointing onward, floats proudly in the face of the enemy; that vast regions are reduced to obedience to the laws, and that a great host in armed array now press with steady step into the dark regions of the rebellion.

"It is only by earnest and abiding resolution of the people that, whatever shall be our fate, it shall be grand as the American nation, worthy of that republic which first trod the path of empire and made no peace but under the banners of victory, that the American people will survive in history. And that will save us. We shall succeed, and not fail. I have an abiding confidence in the firmness, the patience, the endurance of the American people; and, having vowed to stand in history on the great resolve to accept nothing but victory or ruin, victory is ours. And if with such heroic resolve we fail, we fail with honor, and transmit the name of liberty, committed to our keeping, untarnished, to future generations.

"The historian of our decline and fall, contemplating the ruins of the last great republic and drawing from its fate lessons of wisdom on the waywardness of men, shall drop a tear as he records with sorrow the vain heroism of that people who dedicated and sacrificed themselves to the cause of freedom, and by their example will keep alive her worship in the hearts of men till happier generations shall learn to walk in her paths. Yes, sir, if we must fall, let our last hours be stained by no weakness. If we must fall, let us stand amid the crash of the falling republic and be buried in its ruins, so that history may take note that men lived in the middle of the nineteenth century worthy of a better fate, but chastised

by God for the sins of their forefathers. Let the ruins of the republic remain to testify to the latest generations our greatness and our heroism. And let liberty, crownless and childless, sit upon these ruins, crying aloud in a sad wail to the nations of the earth, 'I nursed and brought up children, and they have rebelled against me.'"

Davis' fearlessness in denouncing Lincoln's Reconstruction Proclamation created a most profound sensation. The Marylander had proposed the one-tenth policy of suffrage in the returning States, a policy of permitting one-tenth of the population in the South to reorganize their Commonwealths and again place them in their proper relation to the Union. This he later abandoned, urging that only a majority vote should control. He gave his support to a bill which the President had vetoed, providing for such a plan. As soon as Congress adjourned Lincoln issued a proclamation based upon the one-tenth proposal and otherwise operating counter to the expressed will of Congress. This action by the Executive resulted in a vehement protest written by Davis and signed by him and Senator Wade, the Chairmen of the House and Senate Committees on Rebellious States. This protest was a powerful arraignment of the administration. It said in part:

"The bill requires a majority of voters to establish a State government, the proclamation is satisfied with one-tenth; the bill requires one oath, the proclamation another; the bill ascertains voters by registering, the proclamation by guess; the bill exacts adherence to existing territorial limits, the proclamation admits of others; the bill governs the rebellious States by law equalizing all before it; the proclamation commits them to the lawless discretion of military governors and provost marshals; the bill forbids electors for President (in the rebel States), the proclamation with the defeat of the bill threatens us with civil war for the exclusion of such votes. This proclamation is rash and fatal, a blow at the friends of the administration, at the rights of humanity, and the principles of republican government. The support of the Republican party is committed to a cause and not to a man. The authority of Congress is paramount and must be respected, and the whole body of Union men in Congress will not submit to be impeached by the President of rash and unconstitutional legislation. He must confine himself to his executive duties—to obey and execute, not make laws. He must suppress armed rebellion by arms and leave political reorganization to Congress."

But few men have ever lived who were able to make history long years after their death, yet Henry Winter Davis was so privileged. His name, by an odd circumstance, was brought into the Blaine-Conkling controversy, the most savage personal conflict in the annals of Congress. Blaine's violent assault upon Conkling rankled in the heart of the New

Yorker to the end of his days. His revenge came in 1883, when he boldly aided in delivering the Empire State to Grover Cleveland, forever blasting the Presidential hopes of the great statesman from Maine. The innocent and posthumous part played by the Marylander in this drama of politics may be indicated by the following extract from Blaine's famous rejoinder:

"As to Mr. Conkling's sarcasm, I hope that he will not be too severe. The contempt of that large-minded gentleman is so wilting; his haughty disdain, his grandiloquent swell, his majestic, super-eminent, overpowering turkey-gobbler strut has been so crushing to myself and all the members of this House that I know it was an act of greatest temerity for me to venture upon a controversy with him. But, sir, I know who is responsible for all this. I know that within the past five weeks, as members of the House will recollect, an extra strut has characterized the gentleman's bearing. It was not his fault. It was the fault of another. That gifted and satirical writer, Theodore Tilton, of the New York Independent, spent some weeks recently in this city. His letters published in that paper embraced, with many serious statements, a little satire, a part of which was the statement that the mantle of the late Henry Winter Davis had fallen upon the member from New York. This gentleman took it seriously, and it has given his strut additional pomposity. The resemblance is great. It is striking. Hyperion to a satyr; Thersitis to Hercules; mud to marble; dunghill to diamond; a singed cat to a Bengal tiger; a whining puppy to a roaring lion. Shade of the

mighty Davis, forgive the profanation of that jocose satire!"

The death of Davis in 1865, nine months after he had retired from the House, was a stunning shock to the whole nation. He had just reached his prime and was looked upon by leaders of all parties as the most promising man developed by the legislative problems of the Civil War. As a measure of expression of this national bereavement, the two houses of Congress united in a memorial service to the dead statesman, a service never before nor since accorded to a private citizen. The House on February 22 adopted resolutions of grief and invited the Senate to join in the tribute. At twelve o'clock on that day the Senate in a body entered the chamber of the House, followed by the Judges of the Supreme Court, headed by Chief Justice Chase. Members of the Cabinet and the Diplomatic Corps occupied the reserved galleries. The public galleries were thronged with people. The flags above the Speaker's chair were draped in black and other insignia of mourning were exhibited. A portrait of Davis was visible through the folds of the national banner. The Marine Band occupied the press gallery and discoursed dirges during the proceedings. After the reading of the Declaration of Inde-

pendence, Schuyler Colfax, Speaker of the House, pronounced a brief eulogy, then introduced Senator J. A. J. Creswell, of Maryland, who delivered an oration upon the life and public services of the deceased.

MONTGOMERY BLAIR

1813—1883

Of that group of eminent Marylanders whose service to their country distinguished them during the fateful period of the Civil War, only one lived to see their labors and their sacrifices maturely fructify. Only one lived to see the disrupted Union completely reconstructed, to see the slave given both his freedom and his citizenship, to see the South participate once more in the councils of the Republic, to see the enemies of a thousand battlefields living again in peace and fraternity.

Roger B. Taney died in 1864, with the issue of war still undetermined. Henry Winter Davis passed away in 1865, while the low thunder of conflict yet echoed throughout the land. Reverdy Johnson survived Lee's Surrender by ten years, but he did not survive the angry passions following in the wake of that surrender. Montgomery Blair alone lingered upon the scene long enough to witness the withdrawal from the South of the last armed guard and the restoration of the last seceding State to its proper relation in the sisterhood of American Commonwealths.

For thirty years this Maryland statesman

and lawyer was a conspicuous figure in the vital affairs of the nation. From the beginning of his residence in the State, in 1853, until his death in 1883, his career was intimately associated with the dramatic events of those three decades. First a Democrat, then an American, afterward a Republican and, finally, a Democrat again, he represented a type of militant independence that made him a veritable storm centre in politics, and his name a perpetual challenge to the rampant radicalism of all parties.

An hereditary follower of Jacksonian Democracy, Blair gave adherence to that political faith as long as it stood for the inviolable preservation of the Union. When, in the course of time, this ancient organization became the defender of slavery and the friend of sectionalism, he abandoned it and engaged actively in the formation of the Republican party. He sat as a delegate in the convention that nominated Fremont in 1856, and cast the vote of his State four years later for the nomination of Abraham Lincoln.

Because of his devotion to the Union, Blair was rewarded with the Postmaster-Generalship in Lincoln's Cabinet. For three years and a half he sat at the right hand of the great War President, a loyal member of the most historic

ministry in our national annals. When, however, his presence in that official household became embarssing to the Executive, threatening to defeat Lincoln's re-election, the Marylander withdrew, a willing sacrifice to the interest of his friend and to the cause which his friend embodied.

Unable to associate himself with the destruction of the State sovereignty as opposed to the reconstruction policy of the lamented Lincoln, Blair once more changed his political allegiance, casting his fortunes with the conservative Democrats. As a leader of that element, he took part in the formation of a new constitution for his State, demanding of the convention the re-enfranchisement of every loyal white man of Maryland.

Turning again to national politics, Blair supported the nomination of Horace Greely in 1868. After that ill-fated candidate was buried beneath an avalanche of votes, he became the friend and champion of Samuel J. Tilden. He led the fight for Tilden's nomination in 1876 and appeared before the Electoral Commission, as that nominee's counsel, in an effort to defeat a conspiracy boldly bent upon seating Rutherford B. Hayes.

Unlike most Marylanders whose names have been written indelibly into American history,

Montgomery Blair entered the public service with the advantage of distinguished lineage. He was the son of Francis Preston Blair, editor of the Globe, a famous newspaper published in Washington during the administration of Andrew Jackson. This publication was the organ of the Jackson regime and its editor was the intimate friend and adviser of the Chief Executive and unqualifiedly the most powerful private citizen in the land. James Blair, the grandfather, was for 23 years Attorney-General of Kentucky, and one of the foremost lawyers west of the Allegany Mountains.

Blair's mother was a daughter of Nathaniel Gist, scion of an illustrious Maryland family and himself a Brigadier-General in the Revolutionary Army. General Gist's grandfather, Richard Gist, was one of the commissioners who laid out the City of Baltimore. To this ancestral line Montgomery Blair united another equally renowned when he married Mary Elizabeth Woodbury, daughter of Levi Woodbury, Governor of New Hampshire, Senator, Cabinet Officer and Associate Justice of the United States Supreme Court.

Thus favored by family connections, Blair was spared that obscurity which usually claims an ambitious youth in a country where titles

of nobility and rank, as a birthright, are unknown. But this young man inherited more than an honored name. To him descended a superb mental equipment, the spirit of a born fighter and a will that yielded blindly to the judgement of discipline of no man or no set of men. Intellectual independence marked his course from his first appearance before the people until the end of his life.

Born in Kentucky in 1813, Blair remained in that State until President Jackson appointed him to a cadetship at West Point. He graduated from that institution in 1835 in the same class with General Meade, Commander-in-Chief of the Army of the Potomac at Gettysburg. The young Lieutenant served through the Seminole War in Florida, but resigned from the army in 1836 to take up the study of law at Transylvania University, in Kentucky. A year later he moved to St. Louis and entered upon the practice of his profession, becoming the friend and protege of Senator Benton. Shortly after his arrival in that city he organized the Montgomery Guard, composed wholly of Irish citizens, and the first military organization of that nationality to be formed in the United States.

Blair's career as a public official began with his appointment in 1839 as United States Dis-

trict Attorney for the district of Missouri. He was removed from this office by President Tyler, but was in 1845 elected Judge of the Court of Common Pleas. He retired from the bench four years afterward to form a law partnership with his brother, F. P. Blair. Having accumulated a comfortable fortune in St. Louis, Blair removed to Maryland in 1853, and at once acquired a lucrative practice in the Maryland and District Courts. President Pierce in 1855 named him Solicitor of the Court of Claims. This was the second office under the federal government which Blair occupied, and from this President Buchanan removed him in 1858 because of the Marylander's pronounced views on the slavery question.

Meanwhile, Blair had become active in politics. He had followed his father into the Democratic party and, like his distinguished progenitor, he was an ardent supporter of Jacksonian principles. He remained in the Democratic ranks until the issue of slavery split them and drove thousands of old-line followers to the shelter of less conservative organizations. Blair's first venture after the false gods of politics was his temporary enlistment in the American party, an organization controlled in the State at that time by Henry Winter Davis.

Finding the future Americanism wholly unpromising and its propaganda silent upon the one issue which cried aloud its challenge to the country, Blair withdrew his support of that organization, turning his attention to the re-creation of the Republican party upon a national scale. In quitting the Americans, however, he made an uncompromising enemy of Henry Winter Davis. And Davis' resentment pursued Blair until the death of the former.

Until 1855 the Republican party had little standing. It was controlled where any organization at all existed by rabid opponents to slavery or by malcontents who rushed to it because there was no other place to rush. The Whig party had disbanded following the Presidential election of 1852. The Northern and Southern wings of that organization had been unable to harmonize upon the slavery question or to find other common ground upon which they might stand. The dissolution of the Whigs gave immediate impetus to the American party, but even this did not furnish an abiding place for the red-blooded opposition to Democracy as dominated by Southern statesmanship.

In 1845 the reorganized Republicans determined upon a serious campaign for a place of

power in the nation. They started out deliberately to capture the House of Representatives in the bi-election and, to the utter amazement of the Democratic leaders, they made a winning fight. As soon as Congress organized they nominated Nathaniel P. Banks for the Speakership and after a contest yet famous in parliamentary annals, they elected him. Such a triumph in displacing the Know-Nothings as the second party aroused unbounded enthusiasm in the new organization and simultaneously an overpowering ambition to land the Presidency itself.

Montgomery Blair and his father, Francis Preston Blair, cast their lot with the Republicans in time to participate in the Congressional campaign of 1854. They joined heartily in the assembling of the remote elements of that conglomerate organization into a big, compact fighting body. Before this there had been no concentration, no centralization of forces nor fixed program of issues. Nor had there appeared any national leadership upon which the Republicans could safely rely for guidance, though they had gained control of many of the free States by 1855.

Early in 1856 the demand for a national convention which should nominate a Republican candidate for the Presidency, crystallized in

the issuance of a call from Washington for such a body to meet in Philadelphia on June 17. This call was headed by Francis P. Blair, representing the State of Maryland. Twenty other signatures were attached, representing as many States. Authority for the circular was given at a preliminary convention held in Pittsburgh on February 21 of that year. The elder Blair had presided over that early assemblage and was at that period the recognized leader of the Republican forces throughout the country.

In response to this call, delegates from all the free States came together in Philadelphia in June. Montgomery Blair and his father headed the Maryland contingent. In the ranks of that body were all shades of anti-slavery opinion. The Abolitionists, the Free Soilers, Know-Nothings, Democrats who had supported the Wilmot Proviso, and Whigs who had followed Seward were on hand. No contest over candidates took place. Neither Chase, nor Seward, nor Judge McLean wanted the nomination, feeling, as they did, that the time had come when the Republicans could elect a President.

The Blairs, however, had a candidate. Early in the movement for a national convention they had proposed that General John C. Fre-

mont who had rendered brilliant service in the army as an explorer of the West and as a Senator from California, be named. General Fremont had married the accomplished daughter of Senator Benton, of Missouri, a warm friend of the elder Blair. By skilful maneuvering the Blairs threw the nomination to the General. William J. Dayton, a Senator from New Jersey, was nominated for the Vice-Presidency.

This was Montgomery Blair's first essay into the field of national politics. Fremont was defeated by Buchanan, but the size of his popular vote astonished the opposition, convincing the Democratic leaders that a new and formidable foe had come forward. And the strength of this organization was vastly increased by the Dred Scott decision of the Supreme Court, handed down about this time. The younger Blair appeared as the leading counsel for the plaintiff in that case, being opposed by the veteran, Reverdy Johnson. Blair lost his case before this Court, but his prestige with the anti-slavery people assumed new proportions by reason of this association with their cause.

The Marylander further endeared himself to the anti-slavery element when, in 1859, he insisted that John Brown, leader of a band of

misguided fanatics, in a raid upon the government arsenal at Harper's Ferry, have the benefit of a fair trial. Blair had himself been asked to defend Brown, but there were circumstances that made it impossible for him to appear in court. He and Governor Andrew, of Massachusetts, however, retained Samuel Clinton to defend Brown and to demand for the prisoner such safeguards as the law allows even the commonest criminal. There was no purpose on the part of Blair to palliate the crime of which Brown stood accused, but he and many others were convinced that the raider was mentally unbalanced and, if so, they demanded that he have the benefit of special counsel.

In the convention of 1860 the Blairs again headed the Maryland delegation. Eleven delegates were originally named to represent the State, but sixteen appeared at the convention hall and asked to be seated. Montgomery Blair made a speech urging the admission of the entire number, but his effort was unavailing. The father and son took up the candidacy of Lincoln, whose strongest rival was Seward. On the final ballot these two spokesmen of Maryland Republicanism carried nine out of the eleven members of the delegation for the Illinoisan.

Lincoln's nomination was followed by his election, and that by the difficult task of forming a Cabinet. The President went about this in his own way and, mindful of the services which Montgomery Blair had performed for the party and for the Union, the Executive invited the Marylander to become Postmaster-General in the new administration. This gave offence to many of Lincoln's closest friends, particularly to a group of Marylanders headed by Henry Winter Davis. They insisted that Blair was in no way identified with the State, that he was, in effect, a non-resident, and that his association with the Union forces was too recent to be genuine.

Lincoln overruled these objections, but he could not silence the objectors. At the very outset they made an issue of the Blair appointment, and because of it fomented discord in Congress and wherever else they could exert pressure. And in their campaign against the new official they were given unconscious aid and encouragement by Blair himself. He was temperamentally combative and, in maintaining his position upon the vital problems with which the war administration wrestled from the very day of its inauguration, he showed no consideration for any interest, large

or small, not determined upon immediately crushing the rebellion.

This spirit of obstinacy manifested itself in the very first division among the members of the new Cabinet, a division, incidentally, that was never wiped out and one which threatened for a time to bring to a sudden end Blair's official tenure. This controversy arose over the relief of Fort Sumter, then beleaguered by South Carolina militiamen. Secretary of State Seward, backed by the military judgment of General Scott, stubbornly resisted any move to reinforce that garrison, first, because it was deemed to be impossible, and second, because Seward still hoped to effect a conciliation of the South. Blair's indignation at a policy that would deliberately sacrifice the little band of federal soldiers then holding the fort, without even an attempt at rescue, knew no bounds. And finding the President inclined to agree with Seward, the Marylander wrote his resignation, refusing to be even officially a party to any such surrender. This chapter in Blair's career is recorded in the recently published diary of Gideon Welles, Lincoln's Secretary of the Navy. Welles says:

"Postmaster-General Blair, who had been a close and near observer of what had taken place through the winter and spring, took an opposite view from Mr. Seward and General Scott. To some extent he

was aware of the understanding which Mr. Seward had with the members of Buchanan's administration, or was suspicious of it, and his indignation that any idea of abandoning Sumter should be entertained or thought of was unbounded. With the exception of Mr. Seward, all his colleagues concurred with Mr. Blair at the commencement, but as the subject was discussed and the impossibility and inutility of the scheme was urged, with assurance from the first military men in the country, whose advice was sought and given, that it was a military necessity to leave Sumter to its fate, the opinions of men changed, or they began at least to waver. Mr. Blair saw these misgivings, in which he did not at all participate, and finally, observing that the President, with the acquiescence of the Cabinet, was about adopting the Seward and Scott policy, he wrote his resignation, determined not to remain in the Cabinet if no attempt were made to relieve Fort Sumter. Before handing in his resignation, a delay was made at the request of his father. The elder Blair sought an interview with the President, to whom he entered his protest against non-action, which he denounced as the offspring of intrigue. His earnestness and indignation aroused and electrified the President; and when, in his zeal, Blair warned the President that the abandonment of Sumter would be justly considered by the people, by the world, by history, as treason to the counry, he touched a chord that responded to his invocation."

The President thereupon completely reversed his policy, ordered Sumter reinforced and the whole of the Home Squadron to proceed at once to the relief of the beseiged fortress. The Postmaster-General triumphed, but

in doing so he incurred other enmities and made for himself a position more uncomfortable in the official household of the President. Unmoved by the storms he had created, Blair receded not one inch from the aggressive attitude he had assumed from the beginning of his service in the Cabinet. On the contrary, he invited further trouble, when, in less than a year from the clash over Sumter, he boldly denounced the unwarranted seizure of Mason and Slidell, the two Confederate envoys taken from the British steamer Trent by Captain Wilkes, of the American man-of-war *San Jacinto.*

This act of the American naval officer aroused tremendous enthusiasm throughout the entire North. It was hailed as a deed of heroism, and the captain, after being thanked by Congress, commended highly by the administration, was feted and toasted wherever he made his appearance. The seizure, however, produced a profound sensation in Great Britain. War with the United States was threatened. An ultimatum to this government was issued by the British ministry and a warning given that the failure to release the two prisoners would be followed by tragic consequences. Long before England pronounced her threats and while the country was still

effervescing over Captain Wilkes' deed, one man there was who foresaw the troubles ahead and who stood alone in the Lincoln Cabinet against a defence of the indefensible folly of Wilkes. That man was Montgomery Blair. And though he brought upon himself the reproach of his colleagues and the unmeasured abuse of the country, he had his vindication, when, a few weeks after the British protest was received, the administration threw up its hands and delivered the Confederate prisoners to the officer of an English frigate off Cape Cod. Charles Francis, writing of the Trent affair fifty years afterwards, has this to say of Blair's resistance of the popular clamor for detention, at whatever cost, of the two envoys:

"As a final result of recent investigations I have reached the conclusion that, among those occupying positions of prominence and political responsibility in American public life at that time, two only preserved their poise throughout the Mason and Slidell episode, and, taking in all the aspects of the situation, both acted with discretion and counseled wisely. These two men were Montgomery Blair and, somewhat strange to say, Charles Sumner. They alone, using the vernacular, did not 'slop over,' prematurely and inconsiderately committing either themselves or the country, whether in private speech or public utterance. Though not quoted at the time, Mr. Blair's attitude was more pronounced. According to Secretary Welles, he 'from the first denounced Wilkes' act as unauthorized, irregular and illegal,' and even went

so far as to advise that Wilkes be ordered to take the *San Jacinto* and go with Mason and Slidell to England, and deliver them to the British government.

"Taken immediately and openly in the presence of the whole world, the position advised by Mr. Blair would have indicated the supreme confidence we felt in our national power and the pronounced contempt in which we held both those whom we called 'rebels' and those whom they termed 'envoys.' Such a line of conduct, immediately decided on and boldly declared, would have been an inspiration worthy of a Cavour or a Bismarck; but, though actually urged in the Cabinet by Mr. Blair, its adoption called for a grasp of the situation and a quickness of decision which, very possibly, could not reasonably be expected under conditions then existing."

These marks of Blair's sturdy independence were, however, soon to have a wider signification than mere differences of opinion among counselors of a common cause. The same opposition to the Marylander's appointment to the Cabinet followed him relentlessly and gathered volume as Seward and Stanton and other powerful factors united with Blair's detractors. Many honest friends of Lincoln, too, sincerely believed that the Executive harbored in the ex-Democratic Postmaster-General a disloyal adviser. The President never shared in this distrust, though, when political expediency demanded it, he did not hesitate to lend himself to a bargain, the price of which was

the Postmaster-General's resignation. And the story of this denouement brings us to a climax in the life of Montgomery Blair.

General John C. Fremont, late friend and political protege of the Blairs, during the course of the war had been assigned to command the Department of Missouri. Following his successful campaigning in that State, he issued, upon his own responsibility and without consultation with any authority, a proclamation setting free the slaves within his jurisdiction. This high-handed action was met with a storm of protest, particularly from General Frank P. Blair, brother of the Postmaster-General. When the President was informed of the proclamation he showed deep irritation and, revoking the emanicpation order of his General, recalled the field officer, assigning him to a small command in West Virginia, to remain there until the end of the war.

Openly resenting this banishment and the rebuke, all of which General Fremont ascribed to the activities and influence of the Blairs, that officer announced himself a candidate for the Presidency against Lincoln and McClellan. Such a candidacy was dangerous only in so far as it might split the Union forces and elect a Democrat to succeed Lincoln. With this possibility in mind, friends of Lin-

coln opened negotiations with General Fremont, looking to his retirement from the campaign. Finally an agreement was reached under the terms of which Fremont was to withdraw from the race, provided the President called for the resignation of Montgomery Blair. These terms were accepted, and on September 23, 1864, the President addressed the following letter to the Postmaster-General:

"My dear sir: You have generously said to me more than once that whenever your resignation could be a relief to me, it was at my disposal. The time has come. You very well know that this proceeds from no dissatisfaction of mine with you personally or officially. Your uniform kindness has been unsurpassed by that of any friend; and, while it is true that the war does not so greatly add to the difficulties of your department as to those of some others, it is yet much to say, as I most truly can, that in the three years and a half during which you have administered the General Postoffice, I remember no single complaint against you in connection therewith."

On the same day Blair dispatched the following response to the President:

"My dear sir: I have received your note of this date referring to my offers to resign whenever you should deem it advisable for the public interest that I should do so, and stating that in your judgment that time has now come. I now, therefore, formally tender my resignation of the office of Postmaster-General.

"I cannot take leave of you without renewing the expressions of my gratitude for the uniform kindness which has marked your course towards me."

The circumstances of this, the most extraordinary proceeding of its kind to which the President of the United States was ever a party, is faithfully recorded by the historian Rhodes. He says:

"The tide having turned, the President helped the movement with the art of the politician. The sixth resolution of the Union National Convention virtually called for the resignation of Montgomery Blair from the Cabinet. During the gloomy summer, when everything seemed going wrong, when a smaller man would have complied with this demand, Lincoln did nothing, knowing that such an effort would be compared to the drowning man clutching at straws. But when the current began to run in his favor, he was willing to make assurance doubly sure by lending himself to a bargain which should win the support of the still disaffected radicals who had placed Fremont in nomination, and of Wade and Davis, the authors of the manifesto and the most bitter of his opponents, who had influence and a considerable following. Fremont was to withdraw from the field, and the President was to request the resignation of Blair. The bargain was faithfully carried out. Fremont's letter of withdrawal to do his 'part toward preventing the election of the Democratic candidate,' was published in the evening journals of September 22, and the next day the President requested the resignation of Blair. To seal such a bargain was not a dignified proceeding on the part of the President of the United States, but it was a politic move. When we take into ac-

count the history of the candidates of third parties, the earnest following of Fremont, and the estimated closeness of the vote in certain important States, the political shrewdness of Lincoln was apparent. To consolidate the Republican party against its old-time opponent, to secure the energetic service of Wade, and the silence of Henry Winter Davis by a concession that had in it nothing of dishonor, and involved no injury to the public service, was a course to be adopted, without hesitation, by a master politician. Blair, with generosity and patriotism, made the sacrifice, and began at once to speak publicly and labor earnestly for the re-election of Lincoln."

Blair was engaged actively throughout the campaign that gave Lincoln a second term, but when Andrew Johnson succeeded to the Presidency, following the assassination of Lincoln, the Marylander faced about and rejoined the Democratic party. The reconstruction policies of the new regime were primarily responsible for this change of affiliation in the former Cabinet officer. In 1867 he participated in the Maryland Constitutional Convention and was elected president of the Anti-Registry Convention, held in the State to formulate a demand that the right of suffrage be not restricted by radical processes designed to disfranchise half the white population.

Five years later Blair was a delegate from Maryland to the Democratic National Convention that nominated Horace Greeley to oppose General Grant. Four years afterward

he became the stanch supporter of Samuel J. Tilden. He was editor of The Union, a newspaper founded in Washington for the purpose of defending Tilden's interests. The money to finance this organ was supplied by W. W. Corcoran. In the following year Blair was engaged as counsel for Tilden before the Electoral Commission, the body that finally declared Hayes entitled to the Presidency.

In 1878 Blair was elected to the Maryland House of Delegates from Montgomery County, and was at once made chairman of the Judiciary Committee of that body. He proposed the resolution adopted by the legislature denouncing the seating of President Hayes. When the Democratic National Convention assembled in 1880 and Tilden's name was again brought forward, it was Blair who carried a personal letter to that convention from the late candidate announcing that under no circumstances would he accept another nomination. Blair's last move in politics was made in 1882, a year before his death, when he was an unsuccessful candidate for Congress from the Sixth Maryland District.

This review has dealt largely with Montgomery Blair's career as an executive and a political factor. It would not be complete, however, without reference to his standing as

a profound lawyer. He figured in many of the celebrated cases of his time, beginning with his appearance against Dred Scott. He joined Reverdy Johnson in an attack upon the test oath before the Supreme Court in the Cummings case, sharing in the notable victory achieved. About the same time he defended his brother, General Frank P. Blair, of Missouri, when the same issue was raised. His most famous pleading, however, was his defence of Belknap, when that Cabinet officer was impeached before the Senate and acquitted of the charges preferred by the House of Representatives.

Blair's administration of the Postoffice Department during the trying period of the war, was in itself a monument to him. He established field postmasters recruited from the army; he cut off the old franking privilege of postmasters; he reduced the cost of mailable matter generally, and established many reforms that have stood as guides to his successors to this day.

ARTHUR P. GORMAN.

1839—1906

The field of American statesmanship may be surveyed from the commencement of the Republic to this day, its genius may be reckoned, its ability may be appraised, and its patriotism may be weighed, yet the process, however sweeping, will reveal the public service of no Marylander whose influence upon the politics of his time was more potential than was that of Arthur P. Gorman.

John Hanson was instrumental in evolving a system of federated government in America; Luther Martin saved the individual States from the doctrine of wholesale centralization; William Wirt forced the disintegration of an ancient political party; Roger B. Taney precipitated a civil war by a judicial decision, and Reverdy Johnson heroically disarmed the enemies of civil liberty as guaranteed by the Constitution.

These were, indeed, splendid contributions from the State of Maryland to the annals of the nation. Yet it is to be doubted if they will endure longer upon the pages of our history than will the achievements, in this generation, of Arthur P. Gorman, that master of political

strategy, that maker of Presidents, that prince of parliamentarians, that commanding general of party councils, that skilful director for two decades of Congressional action.

For twenty years the acknowledged leader of Democratic fortunes in the Senate of the United States, Arthur P. Gorman wielded a power in legislation that has been granted to but few men in any period of the country's career. And by a strange freak of circumstances he was no less a factor, as head of a minority element, than when he stood out as the guiding spirit of majority forces. The truth is, that the greatest triumph of his life—the defeat of the Force Bill—was accomplished when he and his associates were overwhelmingly outnumbered.

Four epoch-making events signalized the part Senator Gorman played in the great drama of national affairs, events which made his name a household word throughout the length and breadth of the land and wrote that of Maryland in capital letters wherever politics and policies, partisanship and parties were an absorbing interest.

In 1883, a Senator still in the freshman class, a man unheard of and unheralded beyond the confines of his State, assumed the management of the National Democratic organization.

In that campaign he elected a local New York politician to the Presidency of the United States, the first Democrat to attain that high office in 30 years.

Turning from political leadership to practical legislation, this same man helped resurrect that clause of the Federal Constitution giving Congress authority over trade between the States, and under it, write upon the statute books a law creating the Interstate Commerce Commission.

Close upon this came the most memorable parliamentary battle ever witnessed in Congress, a battle in which this Marylander led a minority party in a victorious assault upon the Force Bill, defeating a demand of the united Republicans that the South again yield itself to negro domination.

And before his legislative record closed, this Senator passed through Congress the Wilson-Gorman Tariff Bill, a measure that split the party which he had done more than any single man to rehabilitate, and brought upon him President Cleveland's "party treason, party perfidy" anathema.

It is not the purpose of this sketch to deal with the meteoric rise of Senator Gorman from a position of utter obscurity in the State

to one of power more absolute than yielded to any other man since the commonwealth was formed. That is a story of the most intense interest and, though it has been told again and again, it is one with which every historian of Maryland must deeply concern himself.

This review will comprehend only the broad national phases of this Marylander's life, his long and honored career as a Senator, his astute party management, his share in the constructive legislation of five administrations, his consummate skill as a diciplinarian, his adroit maneuvering against almost insuperable odds and his relationship to the vital facts of the period with which his name is historically associated.

Arthur P. Gorman entered public life without the advantage of a fortune or the favor of an ancestral line. Nor was he equipped with a finished education. At the age of 13 years he was a page in the United States Senate, having become the protege and at one time the secretary of the "Little Giant from the West," Stephen A. Douglas. At the close of the war he was assistant postmaster of that body, and a little later was made postmaster. He was removed from that office in 1866, and was almost immediately appointed Collector of Internal Revenue for Maryland by President Johnson.

When Grant's administration began young Gorman retired from the collectorship.

In 1869 Gorman was appointed a director in the Chesapeake & Ohio Canal Company. In the same year he was elected a member of the House of Delegates, serving for one session as Speaker of that body. In 1872 he became president of the canal company and, as executive head of this quasi-State institution, he laid the foundation of his resistless political organization of later years. Three years afterward he was elected to the Senate for a term of four years.

Though Gorman had by this time become a factor in State politics and had a strong following throughout the western counties, it is to be doubted if he would have been heard of again at home but for one of those extraordinary circumstances which providentially, it seems, changes the whole course of a man's life. Senator William Pinkney Whyte was then the leading Democratic figure in the State. He and Gorman had been political friends and when, in 1778, the Democrats gained control of the United States Senate, the younger man, willing to abandon his interests and prestige in the State, sought the comparatively unimportant position as assistant secretary of that body. Senator Whyte refused to indorse Gorman for

the place. The facts about this incident and the far-reaching consequences of it are interestingly recorded in Kent's "Story of Maryland Politics." This author says:

"It was just after the State election of 1778 that the break came between Mr. Gorman and Mr. Whyte. It was over a comparatively trivial matter, but it created a breach that lasted a lifetime and widened as the years went by, embittering both men. It was about this time that the Democrats secured control of the United States Senate. Gorman, who was then in the State Senate, but who loved the life at Washington with which he had been familiar for so many years, but who had at that time no thought of becoming a Senatorial candidate himself, desired the position of Assistant Secretary of the Senate. With the friends he had at Washington among the Democratic Senators, he possessed an advantage over the other candidates. With the support of his own Senators from Maryland, there would have been no question but that he would have gotten the place. Senator Groome was, of course, with him. Gorman went to Washington and asked Senator Whyte to support him for the place. Mr. Whyte told him that Senator Dennis, who had just been defeated by Senator Groome, through Mr. Gorman, was a candidate for the position and that he was pledged to him. Mr. Gorman, it is stated, said to Mr. Whyte, 'I can get this place if you will support me. Dennis can not get it with or without your support. I want the place and I want your support.'

"Mr. Whyte declined to recede and took the ground that he could do nothing but support Senator Dennis so long as he chose to be a candidate, although he, White, had not advised his candidacy. Gorman put it up to him squarely, and then, finding

him still unmoved, turned on his heels and left the committee room where the interview took place. He went direct to Baltimore and stated that night that he was a candidate for the United States Senate to succeed Mr. Whyte.

In less than two years from that fateful interview Arthur P. Gorman had defeated the veteran Whyte for the Senate, had formed an alliance with political forces in the State that gave him undisputed control of its party organization and placed him in a position to dictate, unconditionally, Democratic policies and Democratic candidacies for a quarter of a century. No American Commonwealth has ever been, for so long a time, ruled by the arbitrary will of one man, as was Maryland during the regime of Arthur P. Gorman.

Such were the singular circumstances that inaugurated a career in national affairs destined to record the name of this Marylander among the illustrious legislators of a century. On March 3, 1881, Gorman took his seat in the Senate of the United States, the same body whose assistant secretary he had, three years before, sought to be. He joined the ranks of the unfamed, a private in prestige, a novice in experience.

But ambition's fires burned in that breast. He dreamed of the day when he would assume a position of command in that, the greatest de-

liberative council of the world. As a youth he had been familair with the intellectual giants of the Civil War and Reconstruction period. The venerable Clay still lingered in the Senate when this boy first appeared at the National Capital. Sumner and Seward were just rising in their transcendent glory. Judah P. Benjamin, William L. Yancey, Robert Toombs and Stephen A. Douglas, Jefferson Davis, Lewis, Cass, Trumbull, Fessenden, Grimes and Hamlin were his preceptors. In maturer years he had known L. Q. C. Lamar, Ben Hill, Roscoe Conkling, James G. Blaine and James A. Garfield, Senators of a distinguished line. And the recollection of these statesmen had a determining effect upon the aspirations of this young Marylander.

Nor did he wait long for his opportunity. In 1884 he was made Chairman of the Democratic National Committee by the same convention that nominated Grover Cleveland, Governor of New York, for the Presidency. James G. Blaine, the brilliant, the gifted, the veteran exponent of Republicanism, was named to head the opposing ticket, and at the beginning of the campaign it seemed that the Cleveland fight was hopeless. The Democratic nominee had not lived down the violent assault upon his personal character, made when he was

nominated for Governor. The party itself had not recovered its credit with the country. The Republicans were intrenched in every State in the North and East. Six successive victories had fortified them with an impregnable organization.

These handicaps did not daunt Arthur P. Gorman. He realized the strength of the opposition, but he also recognized their weaknesses. He knew that they were too confident of success and he proceeded to attack their unguarded strongholds. He constructed a political map of the United States. He studied every State, city and district where there was a chance to win. He brought into his conference every leader of consequence in the country. He dismissed from consideration every section that was impossible and concentrated all his strength where there was hope of success. And in his processes he demonstrated a genius for organization that surprised his friends and amazed his opponents. And then came that spectacular climax, just three days before the election. Senator Blaine was closing his campaign in New York City. He was called upon by a body of Protestant ministers, headed by the unbridled Burchard. The declaration was publicly made that the strength of the Democratic party was "rum, Romanism

and rebellion." Gorman instantly saw the possibility of this intemperate statement. With a shrewdness worthy of any political strategist, the Democratic manager seized upon this wretched blunder. In twelve hours he had spread it broadcast over the country. It turned the tide and swept Grover Cleveland into the White House and the innocent Blaine into retirement forever.

Senator Gorman has never been denied the credit for the masterful manner in which this campaign was conducted. Every party leader recognized the marvelous skill which the National Chairman brought to bear upon the result. Bayard, Manning, Lamar and Garland, that group which had picked the Marylander for the difficult post, applauded his work. Cleveland himself admitted that the victory belonged to Gorman, and that the Republicans had simply been outgeneraled. Wherever Gorman showed himself after this contest he received an ovation. His name, unknown and unsung before this campaign, was cheered whenever it was pronounced.

The Marylander immediately assumed a position of importance in the Senate. He was looked upon as the spokesman of the new administration, the intimate friend and adviser of the President. He aided the Executive in

forming a Cabinet and in formulating the party policies. As National Chairman, his voice was all-powerful in matters of minor patronage and rewards. This close relationship with the administration continued during Cleveland's four-year term and was renewed at the beginning of the second term. It was not disturbed until the Wilson-Gorman Tariff Bill was presented to the country.

Senator Gorman's first association with constructive legislation of historic interest was in 1885, when he served upon the special committee that proposed the Interstate Commerce Act of 1887. This Act created the Interstate Commerce Commission, now recognized as the most important board ever established by the Congress of the United States. Not only did the Marylander aid in drafting this far-reaching measure, but when the issue came on the floor of the Senate, he recruited the votes from the minority that prevented its defeat. It is an astonishing fact that the commerce clause of the Federal Constitution lay dormant for nearly a century. With the exception of two minor acts, no statute had been passed under it, or its tremenduous power invoked. This is even more surprising, too, when it is recalled that the Supreme Court, in a long line of decisions, beginning with Gibbons vs. Odgen

and including Baltimore & Ohio vs. Maryland, had held that the States, as such, had no control whatever over interstate commerce.

By 1880, however, the necessity for railroad regulation became apparent to all far-seeing men. In the earlier days the question was not how to control these carriers, but how to secure them. The roads grew to such proportions in the seventies, however, that they threatened to become the masters and not the servants of the people. Their abuses, their rebates, their flagrant discriminations, their overcapitalization aroused public indignation to such an extent that the Granger Movement resulted. In 1885 Shelby M. Cullom, of Illinois, introduced in the Senate the first bill ever drafted giving the government regulatory control of the railroads. Before this could come to an issue a Select Committee, composed of Senators Cullom, Platt, of Connecticut, Miller, of New York, Gorman, of Maryland, and Harris, of Tennessee, was named to tour the country and report upon the most practicable measure that could be devised.

At the first session of the Forty-ninth Congress the committee bill was presented, and immediately there followed the most determined legislative struggle Senator Gorman had ever participated in. Such Senators as Cameron,

Frye, Hawley, Hoar, Morrill, Sawyer, Sewell, Sherman and Spooner opposed the bill. They first took ground against the whole of it, but later concentrated their fire upon the long and short haul clause, and that clause against pooling. Gorman organized the minority in favor of the bill, and Cullom and Allison mustered enough Republicans to drive it through. The Interstate Commerce Commission was brought into being and has long since vindicated its existence. The Hepburn, the Elkins and the LaFollette Acts have, in later years, strengthened its power by giving it sweeping jurisdiction over all transportation business of the country.

During all this time the Democratic forces in the Senate had been in a minority. The House had been Democratic, but at no stage of his administration did President Cleveland have the support of both branches of Congress. James B. Beck, of Kentucky, had been the minority leader in the Senate. He died in 1889, and Senator Gorman was promptly and unanimously chosen as chairman of the minority caucus, a position which gave him the titular as well as the actual leadership of his party in the upper branch of Congress. This leadership he held until his death, save for the brief period when he was in retirement.

Within one year from the time Senator Gorman assumed the responsibilities of his new post he was to be engaged in a titanic struggle for the protection of the South against the ruin and disaster to which the Force Bill would have driven it. This measure had been introduced by Senator Lodge in the first session of the Fifty-first Congress, but its authors dared not take it up for a vote. It went over until the December session, when on the first day it was brought forward by a clear majority of eleven.

To understand the bitter opposition of the Democrats to this measure it is necessary to recall the conditions that confronted the South at that time. The Southern States had barely shaken off the last of the carpet-bag regime. The passions of the Civil War had not subsided. Partisan feeling ran high, and to every Southerner the Force Bill meant a stab to the heart. Its effect, they conceived, would be to return their section once more to dark days of negro domination. They fought against this measure, therefore, as men fight for their lives.

Speaker Reed had driven the Lodge Bill through the House without the formality of a roll call. President Harrison sent message after message to Congress, urging its enactment. Every Republican Senator was pledged

to its support. Nothing stood between the South and chaos, wreck and ruin, except a helpless and an all but hopeless minority of Democratic Senators. Every Democrat in that chamber, in this crisis, turned to Gorman, as if by instinct. If any man lived who could save the South, they believed he could do it. Against him was pitted the venerable Hoar, who had assumed management of the majority forces. Hoar was flanked on either side by Aldrich and Edmonds, the most dangerous strategists in the majority ranks. Supporting this triumvirate was a compact, aggressive and determined body of men, a body holding the votes to crystallize the bill into law if the time should come when they might cast them.

It seemed that Gorman led a forlorn hope. But he was undaunted, unmoved, unafraid. He rallied his soldiers behind him. In his cohorts he had a splendid battery of oratorical and debating talent. He deployed these skirmishers on the floor of the Senate, and day and night they kept up a rapid fire. They assailed every position which the Republicans had assumed, and their arguments were unanswerable. Days and nights passed, then weeks, but the battle line was unbroken. And all the while the minority leaned upon their strong, vigilant leader, or, as Senator Bayard ex-

pressed it, the "quiet, self-sustaining and self-sustained man whom Maryland has given to the country."

Every ruse, every maneuver known to parliamentary skill was resorted to by the Republicans to break down Gorman's defense. Finally, finding themselves unable to keep up the exhausting fight, the majority leaders tried to take the Democrats off their feet for the passage of a cloture rule. The Vice-President failed them, however, refusing to be a party to such a revolutionary act. This maddening failure seemed to demoralize the Republican Senators. At all events, it weakened them with the country and increased the pressure from the outside for an abandonment of the fight. Sentiment, even in the North, had radically changed toward the bill during the course of this unequal, but intensely dramatic struggle, and in changing it had made itself felt in the councils of the Republicans.

The first test had come on December 3, when the Hoar motion to take up the bill had passed by a vote of 41 to 30. The final test came on January 26 following, when Senator Walcott, of Colorado, asked Senator Morgan to yield the floor that he might make a motion to take up the apportionment bill under the Eleventh Census. This was the signal of Democratic

victory. The solid Republican phalanx had broken. The motion to displace the Force Bill was adopted by a vote of 34 to 33, and from that hour the measure was dead beyond hope of resurrection. Of this, the fiercest and greatest of parliamentary battles under this government, Senator J. C. S. Blackburn, of Kentucky, one of Gorman's lieutenants, has said:

"Never while life lasts can I forget the incidents of that struggle. The days went by but slowly and the weeks dragged their weary length along, whilst without adjournment, night and day, the small band was on duty and its unswerving, brave, devoted commander was on deck. I venture to assert that in all the tide of time you will search in vain among the records of the English-speaking people of this world to find a parallel to the splendid generalship, the resourcefulness, the matchless courage, the unquestioning devotion, and the brilliant commandership that Gorman manifested on this occasion. A forlorn hope, of course, he led; battlements impregnable he could not scale, but he accomplished his purpose. He saved the South and, in my judgment, he saved the North as well, when, by a flank movement, he sidetracked the Force Bill and buried it in a grave to which it should have been doomed from its birth. The most splendid parliamentary battle of which history gives us record was the one fought and the one that was won by the Maryland leader."

This triumph found Senator Gorman at the zenith of his career. He was honored throughout the nation and beloved throughout

the South. There was nothing in the gift of that section that would have been denied him. There was nothing within the gift of his party as a whole that he could not have had for the asking. And because of the profound debt which Democracy owed this Marylander, his break a few years later with President Cleveland was the more deeply deplored.

In 1893 Cleveland returned to the White House, having been elected upon a platform pledged to the repeal of the McKinley Tariff Act. This Act had been introduced as a companion measure to the Force Bill, and had been enacted by a strict party vote. It was instrumental in producing Benjamin Harrison's panic, the same panic to which Cleveland fell heir. The Harrison administration had been swept out upon the tariff issue, and with it the Republican majority in the Senate. In the reorganization of that body Gorman became the Chairman of the Finance Committee and the most powerful figure in either branch of Congress.

At the first session of the Fifty-third Congress the Wilson Tariff Bill, designed to supersede the McKinley Act, was passed by the House. It was sent to the Senate and referred to Senator Gorman's committee. When it emerged it had been amended almost one thou-

sand times. And as amended in committee it passed the Senate. It was returned to the House, and shortly afterward sent to conference, where it remained for weeks. Meantime the country's disappointment at the Senate's action had assumed concrete form. Charges were made that Gorman and his associates had sold out to the protected interests; that they had deliberately bargained with the Sugar Trust, for instance, and that campaign contributions were being repaid in the pending legislation. These animadversions reached a climax when President Cleveland addressed a letter to William L. Wilson, accusing the Senate majority of "party perfidy and party dishonor."

It was known of all men that the President, though he called no names, leveled this aspersion at Senator Gorman. This letter created a profound sensation. It divided the party following in each house and, ultimately, throughout the country. The President, on his part, refused to sign the Wilson-Gorman bill, permitting it to become a law by default. Senator Gorman, whose personal honor and party loyalty had been impeached, refused to keep silent. On the contrary, he rose upon the floor of the Senate on July 23, 1894, and in

the course of an indignant denial of the charges made by the President, declared:

"As I have said, sir, that is a most extraordinary proceeding for a Democrat elected to the highest office in the government, and fellow-Democrats in another high place, where they have the right to speak and legislate generally, to join with the commune in traducing the Senate of the United States, to blacken the character of Senators who are as honorable as they are, who are as patriotic as they ever can be, who have done as much to serve their party as men who are now beneficiaries of your labor and mine, to taunt and jeer at us before the country as the advocates of trusts and as guilty of dishonor and perfidy."

Many contemporaries of Senator Gorman have borne witness to the fact that no important change was made in that tariff bill by the Senate without previous consultation with the President himself. Among those who testified to this were Senator Voorhees, of Indiana; Harris, of Tennessee; Vest, of Missouri; Jones, of Arkansas, and Blackburn, of Kentucky. They maintained obstinately that the President was equally responsible with them for circumstances of its amendment and passage, regardless of the terrific censure he directed at them.

Senator Gorman's popularity throughout the country suffered severely as a result of this break with the President. In the next election

the Democrats in Maryland lost the State. In 1899 Gorman himself was succeeded in the Senate by Louis E. McComas. Four years later, however, he resumed his seat in that body, holding it until his death in 1906. He was warmly welcomed when he returned and, by common consent, he was again awarded the leadership of his party.

Congressional procedure has developed four pre-emniently great parliamentary leaders. Henry Clay, Stephen A. Douglas, Thaddeus Stevens and Arthur P. Gorman compose that accomplished galaxy. Each of them, in his time, seemed destined to the Presidency, yet none of them attained it. Their place in history is, however, as securely fixed as is that of Webster, Benton, Calhoun, Tilden or Blaine, disappointed Presidential aspirants, yet statesmen whose service to their country will be remembered as long as American traditions are honored.

ISIDOR RAYNER

1850—1912

American history pays an eloquent tribute to the ability and learning of the Maryland bar, a tribute recorded in the fact that a Maryland lawyer appeared as an advocate in practically every great trial, involving a national interest, during the first century of our life as a nation. The bar of no other State enjoys a distinction more unique nor a renown more extraordinary.

It was Luther Martin who acquitted Associate Justice Chase in the impeachment proceeding before the Senate; it was William Wirt who prosecuted Aaron Burr on the charge of high treason; it was Roger B. Taney who defended General Wilkinson, commander-in-chief of the United States army; it was Reverdy Johnson who tried the Dred Scott case, who saved Andrew Johnson and went to the rescue of Mrs. Surratt; it was Montgomery Blair who opposed Scott, who argued the Cummings test-oath cause and who bore the burden of Secretary Belknap's defence, and it was Isidor Rayner who plead the cause of Admiral Schley before a naval court of inquiry.

These were famous proceedings in their time, but in none of them did counsel and client have a more nearly equal hold upon public interest than did Rayner and Schley. And in none of them did the lawyer reap a greater harvest of honor than did Isidor Rayner. Greater issues had been raised before the tribunals of the country, but none, save the Andrew Johnson impeachment, more deeply stirred the blood of the nation than did the bureaucratic conspiracy to rob an heroic officer of his title to a great victory.

But this trial did more than lay bare the unworthy designs of an unworthy administration. It introduced Isidor Rayner to the country; it exalted him to a place among the brilliant pleaders of his day; it impressed the people of his State with the breadth of his intellectual equipment, and it ultimately elevated him to the United States Senate, the theatre of his greatest service to his State, to the nation and to the cause of constitutional government.

Long before the date of the Schley inquiry Rayner had become a figure in Maryland politics. He had served one term in the House of Delegates, four years in the State Senate, six years in the Federal House of Representatives, and had been elected Attorney-General. His practice as a lawyer, coupled with his promi-

nence as an orator in the forum and in the courts, had marked him as a coming man.

In 1905 he was elected to the United States Senate, and was re-elected without opposition in his party six years later. His fame had been established before he reached that body, however. His service in the House had given him high rank as a debater, and his appeal in behalf of Schley endeared him to the people of the country, without regard to party affiliations or partisan prejudices.

As a member of the Senate, Rayner devoted himself to the domestic issues and to the problems of international law with which the central government was at that time confronted. Here it was that he met and measured strength with the master minds of the day, dedicating himself unreservedly to a strict construction of the Constitution. He planted himself upon the charter of the fathers and challenged every interest that dared profane that sacred instrument.

Isidor Rayner plunged actively into politics as soon as he was admitted to the bar. Each calling had the same fascination for him. Moreover, he firmly believed that the profession of the law was inherently linked with the practice of politics. He believed that the

members of the bar owed a peculiar debt to the State; that the lawyer was as much obligated to counsel the whole people as he was to counsel an individual from whom the retainer came, and that the man who undertook to interpret law and dispense justice under law, should take the lead in making law.

And the whole of Rayner's career as a public servant, with the exception of his tenure of the Attorney-Generalship, was associated with the legislative branch of the government. He never filled an executive office, and never aspired to one. He never sat upon the bench, and never expected to. From first to last he was a lawmaker, a legislator, a statesman. He began his work in the lower branch of the State Legislature. He finished it in the highest deliberative council in the republic.

In 1886 Rayner resigned his seat in the State Senate to represent the Fourth Maryland District in the Fiftieth Congress. He retired from that body at the end of his two-year term, when the Republicans swept the State. He had been a candidate to succeed himself, and just before his death he related an amusing incident to the author of this volume in connection with his defeat. Barnes Compton, a Democratic colleague, had for years represented the Fifth Maryland District in the

House and was likewise seeking re-election. The two candidates met in Baltimore during the campaign. After exchanging greetings, each asked the other how the fight was progressing. Rayner replied that he expected a little difficulty in overcoming his opposition. He said that the Republicans had nominated a young man by the name of Stockbridge, who was an obscure reporter on the Baltimore American and who had no standing whatever. Compton, on his part, remarked that the Fifth District Republicans had put up an unheard-of fellow by the name of Mudd, "Syd," he believed they called him. There would be no trouble, Compton opined, in demolishing the unfamed Mudd. But when the returns were counted each of these over-confident candidates received the shock of his life. Stockbridge was elected in the Fourth and Mudd in the Fifth District. The former has since taken his place on the Maryland Court of Appeals, and the latter for twenty years thereafter was the dominant figure in Southern Maryland politics.

Rayner, however, returned to the House two years later, serving for two terms. He attracted attention in that body from the beginning. His grasp of public questions, his wide knowledge of the law and his application of

the Constitution to the pending problems gave him a measure of party leadership rarely accorded so young a member of the House. Henry Watterson, the distinguished editor, was present at the first speech this Marylander ever made in Congress, and in his report of the circumstance he ventured a prophesy worthy of one inspired. In his review of the Rayner speech, he said:

"If I were asked to select the member of the Fiftieth Congress of the most marked intellectual force, I would, without hesitation, immediately name the Honorable Isidor Rayner, of Maryland. He is as profound and brilliant as Judah P. Benjamin, and, as an orator, has no superior in the Senate or the House of Representatives. His speech yesterday on the bill against the trusts captivated the House and took the galleries by storm. It compared favorably with anything that has been delivered in Congress since the giants of the Augustan Age. It was argument and learning and eloquence combined with satire, and when it was delivered the most noisy body in the world became hushed. The members of the House, including Mr. Reed, leader of the Republicans, crowded about him. The spectators in the galleries leaned over in their seats, not to lose a word, and when he closed it was a perfectly useless task of the Speaker to control the applause that came from both sides of the House and the galleries."

Rayner resumed the practice of law in Baltimore following his brief but brilliant service in the House, and did not again figure in pub-

lic affairs until 1889, when he was elected Attorney-General of Maryland. Meantime, the Spanish War had been carried to a successful conclusion by the United States. Two great naval victories had been won. The Spanish army had been defeated. Peace had come upon terms which we dictated. Cuba had been given her independence and the Philippines and Porto Rico had been ceded to this government.

This brief but splendid conquest demonstrated the fact, however, that peace hath her conflicts no less than war. The triumph of American arms over Spanish oppression and Spanish butchery did not end the strife. The Spanish flag ceased to wave upon this hemisphere and Spanish brutality ceased to flourish, but after them came cruelties of another sort and persecutions of a different stamp. This aftermath of the Spanish war is the most deplorable chapter in recent American history.

And the story of this disgraceful affair, involving deliberate determination on the part of a national administration to destroy the honorable record of a gallant naval officer, brings us to the most interesting event in the life of Isidor Rayner. His single-handed fight against the conspirators won for him the applause of a grateful country, even as his efforts won for his

distinguished client a popular verdict that no autocratic power could overrule.

The essential facts around which the Sampson-Schley controversy centered are known to all Americans. Admiral Sampson was commander-in-chief of the fleet sent by President McKinley to destroy a Spanish squadron lying at anchor in the harbor of Santiago. An effective blockade of this harbor had been established by Sampson. Admiral Winfield S. Schley, a Marylander, was second in command of the blockading vessels. On the morning of July 3, 1898, Admiral Sampson sailed away from Santiago, aboard his flagship, to consult with army officers at Siboney upon a joint campaign for the capture of the port.

Four hours afterward the Spanish fleet, under Admiral Cervera, steamed out of the harbor to give battle to the American ships. Admiral Schley, as the senior officer, automatically assumed command of the American fleet, and in the course of a three-hour battle destroyed the Spanish ships. By all the laws of naval warfare, Schley was entitled to the glory of that victory and, by the common consent of his countrymen, that glory was awarded to him.

The chagrin felt by Admiral Sampson over his absence at such a time was profound, even

though his absence was in obedience to orders from Washington. And in his misfortune he had the active sympathy of the whole navy. The country, too, would have joined in that lament had not a group of administration factors, headed by Secretary of the Navy John D. Long, set about undermining Schley in the hope of exalting Sampson at the expense of the subordinate officer. But this wretched scheme reacted. Its authors miscalculated upon the sense of fairplay and common decency animating every true American. Their plot, though buttressed by the verdict of a naval tribunal, failed miserably.

The fact that the people as a whole took the side of Admiral Schley in a bitter service feud resulting from the Battle of Santiago, led the enemies of Schley into a concerted movement to destroy him. Even after the war was over they pursued him. Three years passed and still the schemers schemed and abused and slandered this brave old officer. Finally, the marplots resorted to a desperate expedient. They caused to be published in the name of Edgar Stanton Maclay, a per diem laborer at the New York Navy Yard, a so-called history of the navy. In this Schley was attacked more viciously than any man had before dared assail him. This book, and the circumstances of

its publication, forced the issue. The Admiral, unable to longer endure in silence the campaign of libel leveled at him, demanded of the Navy Department that a court of inquiry be ordered to determine, in open court, whether he had blundered at Santiago, whether he had disobeyed orders before that battle and whether, in the operation of the flagship Brooklyn, he had actually retreated before the fire of the Spanish ships. These, in effect, were the bases for the assaults upon the Admiral.

This court was convened on the 12th of September, 1901, with Admiral George Dewey as president and Rear-Admirals L. A. Kimberly and Andrew E. K. Benham as members. Captain Samuel C. Lemly, of the Navy, was designated as Judge Advocate General. Isidor Rayner at once volunteered his services as counsel for Admiral Schley, neither asking nor receiving a fee. This trial, the most memorable in the history of the American navy, continued for three months. Though a civil lawyer and wholly unfamiliar, in the beginning, with naval technique, Rayner conducted a masterly defence of the naval officer. He acquired in an incredibly short time an amazing grasp of nautical detail and, to the astonishment of the court and the spectators, he was

able to meet the highly trained Judge Advocate General on common ground. The climax came, however, when Rayner presented his argument. It was a powerful arraignment of Schley's traducers. His appeal for justice to an heroic officer thrilled the country as have few orations in all our history. His closing words are worthy of perpetuation for all time. He said:

"Now, may it please the court, I have finished. Such a trial as this has never, to my knowledge, taken place in the history of the world. It seemed to my mind that the case had hardly opened with the testimony of Captain Higginson before it commenced to totter, and from day to day its visionary fabric has dissolved from view. When Captain Cook, their last witness, was put upon the stand, the entire structure collapsed, and now, after the witnesses from our own ships, and the gallant Captain and crew of the Oregon, and Admiral Schley, have narrated their unvarnished tale, the whole tenement, with all its compartments, from its foundation to its turret, has disintegrated and lies like a mass of blackened ruins.

"It has taken three years to reveal the truth. There is not a single word that has fallen from the tongue of a single witness, friend or foe, that casts a shadow of reflection upon the honored name of the hero of Santiago. He has never claimed the glory of that day. Let it be known, he has never claimed the honor of that day. No word to this effect has ever gone forth from him to the American people. The valiant Cook, the heroic Clark, the lamented Philip, the intrepid and undaunted Wainwright, and all the other captains, and every man at every gun,

and every soul on board every ship are equal participants with Admiral Schley in the honor wrought upon that immortal day. We cannot strike his figure down, standing upon the bridge of the *Brooklyn.* Says Boatswain Hill: 'Every head was bowed but his as the Spanish shot and shell fell thick and fast,' and sent the life blood streaming from young Ellis.

"We cannot strike him down. 'You may assassinate me, but you cannot intimidate me,' said the Irish patriot Curran, as he turned upon his accusers and traducers. There he stands upon the bridge of the *Brooklyn,* his ship almost alone, receiving the entire fire of the Spanish fleet, until the *Oregon,* as if on the wings of lightning, sped into the thickness of this mortal carnage. 'God bless the *Oregon,'* was the cheer that rang from deck to deck; and on they went, twin brothers in the chase, until the lee gun was fired from the *Cristobal Colon* and the despotic colors of Spain were swept from the face of her ancient possessions. 'Well done; congratulate you on the victory,' was the streamer that was sent forth from the halyard of the *Brooklyn,* and from that day to this no man has ever heard from Admiral Schley the slightest whisper or intimation that he has usurped the glory of that imperishable hour. The thunders of the *Brooklyn,* as she trembled on the waves, have been discordant music to the ears of envious foes, but they have pierced with ringing melody the ears of his countrymen, and struck a responsive chord at the fireside of every American home. And what is more than all which has been revealed in this case, as matchless as his courage, and as unsullied as his honor, is his beautiful character, the generous spirit that animates his soul, and the forgiving heart that beats within his bosom.

"Yes, we cannot strike him down. Erect he stands as McGregor when his step was on his native heather, and his eye upon the peak of Ben Lomond. His country does not want to strike him down, nor cast a blur upon the pure escutcheon of his honored name. For three long years he has suffered, and now, thank God, he believes that the hour of his vindication has come. With composure, with resignation, with supreme and unfaltering fortitude, he awaits the judgment of this illustrious tribunal. And if that deliverance comes, he can, from the high and exalted position which he occupies, look down upon his traducers and maligners and with exultant pride exclaim: 'I care not for the venomous gossip of clubs and drawing rooms, and cliques and cabals, nor the poisoned shafts of envy and of malice. I await, under guidance of Divine Providence, the verdict of posterity.' "

Two of the three members of this court were, however, untouched, unmoved by his fervid invocation. They were adamant. Neither overwhelming testimony nor overpowering argument could influence them. They could only hear the demand that Schley be crucified, and to that demand they yielded. In their report they found the Admiral guilty of substantially all that he had been accused of. Happily, however, there was one member of that court, Admiral Dewey, the highest naval authority in the land, who dared dissent. That grim old warrior knew the fibre of which heroes are made. More than that, his voice was

beyond the control of any set of detractors, official or otherwise. He found Schley innocent of every charge that had been made, and in that judgment the American people heartily concurred.

A few years after this trial Isidor Rayner was sent to the United States Senate by the people of Maryland, to stay until death removed him. And a touching circumstance of his service there was the fact that his last public act, a speech on the floor of that body, was an appeal for an increased pension for the widow of the officer he had years before defended. In this address the Marylander took occasion to review the Battle of Santiago and to point to the fuller measure of vindication which history has accorded the hero of that engagement. In this, he said:

"I do not intend to enter upon a description of the conduct of Schley at Santiago, but it seems to me that this is the proper occasion, and I propose to avail myself of it, to show that the famous order for what is known as the 'loop' of the *Brooklyn* that Schley gave upon the spur of the moment and in the heat of battle, decided the conflict and saved the day for the American arms. It was a triumph of naval and nautical skill. Its scope was entirely grasped by Admiral Dewey, when he declined to concur in the opinion of the remaining Admirals who sat with him upon the tribunal that decided the case.

"Admiral Sampson, before he left for Siboney, gave the order to his fleet to close in upon the Spanish ships in the event they made an effort to come out of the harbor of Santiago. Sampson, with all his great skill and experience as a naval commander, could not possibly have foreseen what the Spanish plan of battle would be. The *Brooklyn,* Schley's flagship, was steering a course diametrically opposite to that steered by the Spanish fleet, and in their attempt to escape the Spanish squadron had practically broken through and passed the battleship line, creating an emergency that no one could have foreseen and which had to be met immediately. The commander of the *Maria Teresa,* the leading ship of the Spanish fleet, intended to ram the *Brooklyn,* in accordance with the Spanish plan of battle. Not only this, but, owing to the new situation, there was danger of collision among the American ships, and Cook immediately sent word to Schley that 'We will soon be in the crossfire of our own fleet.' It was then that Cook gave the order 'hard aport' and the *Brooklyn* swung rapidly around to the west a little more than half her tactical diameter, and Sears, the flag lieutenant of the *Brooklyn,* was ordered by Admiral Schley to hoist the signal 'Follow the Flag.' Then, with Clark of the *Oregon* upon the *Brooklyn's* quarter, the most terrific fighting of the day began. In a short time smoke was seen issuing from the port and hatches of the *Maria Teresa,* the leading Spanish ship. The smoke from the *Brooklyn* had blinded the crew so that they could not see what was going on. 'Keep the boys informed,' said Schley to Cook, and the ringing cheers came back until the *Maria Teresa,* leaping from fire into flame, burning fore and aft, turned into the beach six miles west of Santiago harbor. Then the *Brooklyn,* receiving more shells and inflicting as much damage as the

whole of the American fleet combined, went westward on her course in pursuit of the remaining Spanish ships, until fire was seen issuing from the *Oquendo,* the second vessel of the Spanish fleet, and with the *Oregon* and *Brooklyn* in pursuit, she was beached within a half mile of where the *Maria Teresa* gave up the fight.

"Then came the *Viscaya,* and in her flight and her despair, she made a desperate turn towards the *Brooklyn* and the *Oregon,* but as she did this she was struck by a shell from one of the vessels and, hauling her colors down, she was beached at Acerraderos. There it was that Ellis, struck by a shell, fell upon the *Brooklyn* at the side of Schley, and as his lifeless body was about to be cast overboard, Schley gave the order, 'Bring the body back and we will give it a Christian burial.' The *Colon,* the last of the enemy ships, was then making toward the Torquino River. Schley signaled the *Oregon* to try her 13-inch guns upon the fleeing vessel, and with the combined fire of the *Brooklyn* and *Oregon* upon the ship, with no possible chance of escape and with her human cargo doomed to certain death if the fighting continued, her commander ran his ship ashore, fired his lee gun, lowered his flag, and the colors of Spain went down before the colors of the Union upon the western hemisphere."

When Isidor Rayner took his seat in the Senate that branch of Congress had ceased to be a representative body. It was in the hands of a mere handful of men, who knew exactly what they wanted and exactly how to get it. Autocracy was rampant. The leadership of Aldrich, Allison, Foraker, Spooner, Hale and

Frye had just attained its fullest sway. The notorious oligarchy of which they were the spokesmen legislated openly and shamelessly in behalf of special interests. Lately removed from that stubborn and chastening opposition led by Vance and Harris, and Morgan and Blackburn, and Gorman and Voorhees, this combination ruled the Senate and, through it, ruled Congress with a power more sweeping than any exercised by a single group of men in the history of the republic. Great changes impended, however. Far-reaching reforms were gathering force, and the fall of this regime ultimately came, just as it was ordained. But it did not decline until an aroused public sentiment hastened to the support of such men as Rayner and Borah and Dolliver and Beveridge and Lafollette—men who could fight and did fight with fists of iron.

And, coincident with the rise of Senate absolutism, there developed yet another danger threatening the order established more than a century before by the Constitution. This was the brazen usurpation of prerogative by the Executive, the centralization of authority in a personal magistrate. It was the attempt to "convert an abstract sovereignty into a concrete sovereign." This latter-day school of centralizers of twentieth-century Federalists,

of New Nationalists, was headed and tailed by Theodore Roosevelt. As President, he had sought to govern with a power unqualified, unlimited, plenary, and in this ambition he was supported by all those idealists who regarded the Presidency as an office over which the courts had no restraint and Congress no control. The determined effort to wipe out the lines between State and National authority, and to destroy the relationship between the legislative and executive branches of the government presented a grave situation.

Isidor Rayner arrayed himself against these evils as soon as he entered the Senate. He denounced them with a vehemence that stirred the whole country. He found the old Constitution which he had sworn to uphold in disrepute. He found it encroached upon or scoffed at on every side. He found Congress, on the one hand, enacting legislation for which there was no authority under the organic law, and found the President, on the other, appropriating powers never granted to the executive branch of the government. He found the doctrine of States' rights candidly ignored. He found the sanctity of the courts invaded. He found the administrative departments making and executing treaties with foreign governments without either the advice or consent of

the Senate. He found the ancient Monroe Doctrine revived and extended as a cloak to cover a multitude of sins.

Observing these things, Rayner immediately found a field for labor and threw himself into the contest with a passionate enthusiasm. He had studied constitutional law as it had been taught by Thomas Jefferson, by James Madison and John Randolph Tucker. He had taken his interpretations of that law from Marshall, from Taney and from Story, and, fortified by these authorities, he combated with all his might the dangerous tendencies to which Congress was yielding and to which even the country was becoming reconciled. He thundered day after day against the liberties that were being taken with the fundamental instrument. He denounced every invasion of the reserved rights of the States. He declared with all the force he could command that the federal government was endowed with delegated and not with inherent powers. He fought against every move that was made by the Senate to legislate under the meaningless "General Welfare Clause" of the Constitution, that blanket excuse for anything and everything on earth.

Again and again this Marylander was taunted because of his old-fashioned devotion to the

Constitution. And to this impeachment he never failed to respond with a plea of guilty. He *was* devoted to the Constitution and he gloried in the fact. Neither derision, nor scorn, nor ridicule could move him. He believed that the future of the Republic could only be safeguarded by the strictest adherence to that charter. He believed that the checks and balances which it imposed were essential to the perpetuity of representative government. He believed that any wilful disregard of the basic law would be fraught with the most serious consequences. He sadly deplored the fact that the people were showing a willingness to turn from the written work to a collection of apocryphal constructions as a refuge and a relief from restraints fixed when the government was founded.

Senator Rayner did not, however, confine his influence or his discussion to domestic matters. These were of deeper concern to him, it is true, but his interest went further. It extended to every issue between this and a foreign country. He made an exhaustive examination of international affairs and the general law of nations. He studied closely the relations between the United States and other governments and, though a member of the minority party during his entire service in the

Senate, he had a powerful influence upon the foreign policies of three administrations. His review of the limitations upon the treaty-making power under the Constitution, for instance, was one of the most profound arguments to which the Senate ever listened upon that question. His definition of the scope and meaning of the Monroe Doctrine was another monument to his acumen as a practical interpreter of international law. His appeal to the Senate for a termination of the Russian Treaty was answered by an overwhelming vote in favor of abrogation. His assault upon the administration's policy toward Santo Domingo resulted in an instant reversal of that policy and in a special message of apology from President Roosevelt.

Throughout his whole career, from first to last, Senator Rayner was an apostle of peace. He preached it in season and out. He called upon the United States time and again to take the lead among the nations of the earth for the arbitration of international disputes. He supported every step in this direction, whether it originated in Congress or out of it. To him war, as a means of settling controversies between governments, was nothing more or less than a return to barbarism. He could see no sense or sanity in the human sacrifices it en-

tailed or the misery and desolation that followed in its wake. War was, in his judgment, simply organized and legalized murder, though "clad in martial pomp." It was brutalized savagery, though exalted in history and glorified in tradition. And he verily believed that the time would come when armed conflict would be banished from the earth and "cease to be a mockery of religion's holiest offices, a defiance of the Providence of God."

Another article in Senator Rayner's faith was an abiding respect for the duly constituted courts and a deference to their judgments. No man in public life in his day was more zealous in his defence of the judiciary. No man stood oftener between it and that distrust encouraged by those who sought by insidious means to subordinate the processes of justice to political expediency. No man fought harder to protect these tribunals from every influence tending to prostitute their machinery by making it responsive to public clamor. He believed that the courts were a bulwark which, once broken down, would mean the end of constitutional government. He did not believe them infallible, but he did believe that their functions should be inviolate and that any interference with them from the Executive or from Congress was a crime against the people

whose rights and property were in their keeping.

Senator Rayner died just as a triumphant Democracy came into authority in every branch of the government, just as the principles and policies for which he had contended were being given a vote of approval and confidence by the country. Had he lived he would have become one of the ablest spokesmen of the new regime. He would have done his part in carrying into effect the pledges which had swept his party into power.

CONCLUSION

1775—1915

In fixing the relationship of Maryland statesmen, diplomatists, jurists and warriors to the important events in American history, the commanding figures of Hanson, Carroll, McHenry, Martin, Chase, Smith, Pinkney, Wirt, Taney, Johnson, Davis, Blair, Gorman and Rayner stand out in bold relief. They were leading actors in the great drama of our national politics and were awarded high rank in the councils of the Republic. Yet a narrative of their part in establishing and maintaining a system of constitutional government on the Western Continent does not tell the whole story of the State's determining influence upon our destiny as a nation.

As a matter of fact, the names of Marylanders are honorably associated with every period and every crisis through which the country has passed since independence was achieved in America. They were at the front when the immortal Declaration was signed; when the Constitutional Convention met; when the War of 1812 was forced upon us; when rebellion threatened dismemberment of the Union;

when Spain was driven from this hemisphere. Men of the State have figured in Presidential contests; they have occupied seats in twenty Cabinets; they have sat upon the highest court; they have been leaders in the House and Senate; they have represented their government in practically every court and capital in the world, and have served gallantly in every war we have waged against a foreign foe. They have been history-makers from first to last, and it is difficult to comprehend their public services, even briefly, in one volume.

While it is true that only two Marylanders ever received a party nomination for the Presidency — William Wirt in 1832, and Joshua Levering in 1896—five others received votes in the Electoral College for this high office. In the very first contest, that of 1789, R. H. Harrison, of Maryland, was given six ballots. Washington was overwhelmingly elected, as was John Adams eight years later, though in the latter contest John Henry, a Senator from Maryland, received two votes. John Eager Howard, though in no sense a candidate, received the highest electoral vote ever cast for a Marylander when, in 1816, this ardent Federalist was given 22 ballots. Robert Goodloe Harper, also of Maryland, was,

in the same election, complimented with three votes.

In those days the party convention was an unknown institution. Party candidates were nominated by partisan caucuses, in which only the members of the House and Senate had a voice. As a result of this system, the same obligation was not felt by electors in so far as a party ticket was concerned, and it was a common practice on the part of members of the Electoral College to vote as they pleased. Later on the caucus nomination plan was abandoned, as was that of awarding the Vice-Presidency to the Presidential candidate receiving the second highest electoral vote. Party conventions had been established when William Wirt made his campaign on the anti-Masonic ticket against Jackson and Clay, and were firmly fixed in our system when Joshua Levering was named to head the Prohibition party in 1896. William Daniel, a Prohibitionist, was the only Marylander ever duly nominated for the Vice-Presidency. He was the party candidate for that office in 1884.

A long and distinguished line of Maryland statesmen have held positions in Presidential Cabinets. Of the services of James McHenry, Secretary of War under Washington and Adams; William Pinkney and William Wirt,

Attorney-Generals under Madison and Monroe, respectively; Roger B. Taney, Attorney-General and Secretary of the Treasury under Jackson; Reverdy Johnson, Attorney-General under Taylor, and Montgomery Blair, Postmaster-General under Lincoln, this review has already concerned itself. Many other Marylanders were, however, placed at the head of the executive departments of the federal government.

The career of Robert Smith was unusually eventful. He was the only representative of the State in all history to occupy three Cabinet offices, and the only one ever named Secretary of State. He was a brother of General Samuel Smith, veteran soldier and legislator, and had served in numerous State offices prior to the beginning of the Jefferson administration. Shortly after Jefferson assumed office, Benjamin Stoddert, his Secretary of the Navy, resigned. The navy at that time consisted of a few old frigates, survivors of the Revolutionary War, and the naval portfolio was not a coveted office. Dr. Samuel E. Forman, in his "Advanced American History," says that Jefferson found it necessary to advertise in the newspapers for a successor to Stoddert. At all events, Robert Smith was given the place and

remained at the head of the department for four years.

Toward the close of Jefferson's regime Smith was promoted to the Attorney-Generalship, an office held by him until Madison was inaugurated. Madison, in making an effort to win the support in the Senate of General Samuel Smith, bargained with the Maryland Senator for the appointment of the Attorney-General to the Premiership in the new administration. Robert Smith was named Secretary of State in 1809, and handled the delicate negotiations with Great Britain and France immediately preceding the War of 1812. A deadly feud arose in the Madison Cabinet between Smith and Albert Gallatin, resulting, finally, in Smith's forced resignation. He was offered the Legation at St. Petersburg, but declined it. He returned to his law practice in Baltimore, and did not again figure in national affairs.

Benjamin Stoddert, who had preceded Smith as Secretary of the Navy, also was a Marylander. He had fought heroically in the Revolutionary Army and, after being severely wounded at the Battle of Brandywine, became Secretary of the Board of War under the Continental Congress. He was appointed by President Adams to succeed George Cabot

as Secretary of the Navy, and was the second man to fill that office. He was, in reality, the father of the American Navy, being the first official to formate a naval force for the infant government. He was transferred by Adams from the Navy to the War Department, and acted as Secretary of War until the Jefferson administration was launched.

Many of Maryland's ablest lawyers have been Attorney-Generals of the United States. In all, seven have occupied that high office, more than any other State can boast of. John Nelson was the fifth representative of the State to become the chief law officer of the government. He first appeared in the national arena in 1821, when he was elected to the House of Representatives from the Western Maryland District. Ten years afterward President Jackson appointed him Minister to the Court of Naples and, in the Cabinet reorganization following the death of William Henry Harrison, President Tyler invited the Marylander to take the Attorney-Generalship. Nelson accepted the office and served until 1845.

But one instance is of record in which a Marylander was tendered a Cabinet position, was nominated and confirmed, and then declined the honor. To James Alfred Pearce, father of Judge Pearce, of the Maryland Court

of Appeals, belongs this unique distinction. He had become a member of the House of Representatives in 1833 and had served eight years in that body, when he was elected to the United States Senate in 1843. In 1850 President Fillmore urged Senator Pearce to become Secretary of the Interior. Without waiting for a definite acceptance of this tender, the President sent the name of the Marylander to the Senate and it was promptly confirmed. At once Senator Pearce notified the President that he could not qualify for the position, and, though the official records place him in the Fillmore Cabinet, the fact is, he never assumed the duties of the position. Fillmore also offered the Senator a seat on the United States Circuit Court of Maryland, but this, too, was declined.

John P. Kennedy was the third Marylander to become Secretary of the Navy. Twice a member of Congress from the State and at one time Speaker of the House of Delegates, he had become widely known before President Fillmore, in 1852, offered him the Navy portfolio. This was accepted and his administration of that department was marked by two memorable expeditions. It was through the efforts of Secretary Kennedy that Commodore Perry's fleet sailed to Japan and paved the way

for Occidental civilization that has since been embraced by that country. The Arctic explorations of Dr. E. K. Kane were also organized by Kennedy. After retirement to private life the Marylander achieved further fame in literary fields. His "Life of William Wirt" is a classic among American biographies.

Maryland has never produced a more picturesque character than Philip Francis Thomas, Secretary of the Treasury for an even month during the last year of Buchanan's administration. No representative of his State ever occupied more public offices under the federal government, save, perhaps, William Pinkney. And Pinkney's record is broken if Thomas' State offices are considered. It is a curious circumstance, too, that this Marylander probably declined more positions of an important character than any man from any State before or after him.

The career of Philip Francis Thomas began in 1836, when he was elected a member of the Constitutional Convention of that year. He was, thereafter, a member of the House of Delegates five separate times, twice a member of the federal House of Representatives, with an interim of 35 years; was Governor of his State Judge of the Land Office Court, Comptroller of the United States Treasury, Collec-

tor of the Port of Baltimore, Commissioner of Patents, Secretary of the Treasury and a Senator of the United States. It is, indeed, difficult to find a parallel for such a record, and impossible to find one, when it is remembered that Governor Thomas declined the office of Treasurer of the United States, the Secretaryship of the Navy under Pierce, the Governorship of the Territory of Utah during the Mormon War, and a second election as United States Senator.

Governor Thomas became Secretary of the Treasury in 1860, after being repeatedly urged by President Buchanan to accept the portfolio. The Marylander remained in that office but thirty days. War between the North and South was seen to be inevitable, and Thomas, whose sympathies were all Southern, felt that he would be out of place in a Cabinet office at such a time. He therefore withdrew, returning to his home in Easton to again take up the practice of law. He did not himself go into the Southern army, but his son volunteered. That circumstance deprived the father of a seat in the Senate, a seat to which he had been constitutionally elected. He presented his credentials at the bar of that body in 1868, but they were rejected by a vote of 27 to 20, on the ground that the Senator-elect had given aid

and comfort to the Rebellion by supplying his son with clothing.

John A. J. Creswell served for five years in the Cabinet of President Grant. He was appointed Postmaster-General in 1869, at the very beginning of the new regime. He was forced out of the Cabinet in 1874 by reason of political prejudices associated with his early record as a Democrat. Creswell had been a stanch Democrat until the convention that nominated Lincoln. When it became evident that the old party was in sympathy with the South, Creswell left it and united with the new organization. As in the case of Montgomery Blair, the sincerity of this change was never granted by the South-hating radicals. Each of these distinguished Marylanders was pursued by political harpies until forced into retirement. Before becoming Postmaster-General Creswell had served honorably in both the House and Senate.

General James A. Gary never held a political office until he accepted a commission as Postmaster-General in McKinley's Cabinet. He had devoted his energies exclusively to private business, and his success in that was a token of the kind of administration he would give the greatest business institution in the world, the postal system of the United States.

General Gary's health gave way within a year of his appointment, however, and he did not remain in office long enough to see the fruition of the reforms which he inaugurated.

The last Marylander to sit in a Presidential Cabinet was Charles J. Bonaparte. He was appointed Secretary of the Navy by President Roosevelt in 1905, and was two years later transferred to the Attorney-Generalship. Like General Gary, Mr. Bonaparte had not been a seeker of public favors, but had been an ardent reformer in politics and civic affairs. It was Attorney-General Bonaparte's fortune to carry into effect the Roosevelt anti-trust policy. During his two-year term as head of the Department of Justice the foundation was laid for the Standard Oil and American Tobacco Trust decisions of the Supreme Court, decisions that have given new life to the Sherman Act.

Four Marylanders have sat upon the Supreme Court of the United States. Thomas Johnson, Samuel Chase, Gabriel Duvall and Roger B. Taney form that group of learned jurists. With the stormy careers of Chase and Taney, this review has already had much to say. The former was impeached before the Senate of the United States, but was acquitted through the masterly defence of Luther Mar-

tin. Taney was named as Chief Justice in 1836 and occupied that exalted position until 1864, a longer period than it was held by any other man, with the single exception of John Marshall.

Thomas Johnson is, perhaps, the only man in all our history who has ever declined the Chief Justiceship of the Supreme Court, and one of the few men in public life who refused to become Secretary of State. He was one of the deputies from Maryland in the first Continental Congress, and nominated General Washington for Commander-in-Chief of the Revolutionary Army. After independence had been declared and the colony of Maryland assumed the status of a State, Johnson became its first Governor. General Washington named him an Associate Justice of the United States Supreme Court in 1791. When Chief Justice Rutledge resigned, his nomination having failed of confirmation, President Washington tendered the vacant post to the Marylander. This was not accepted for the reason that Johnson had made his plans to retire from the bench. This he did in 1793. Almost immediately thereafter the President urged Governor Johnson to become Premier of his Cabinet. Again he declined.

The service of Gabriel Duvall on the Supreme Court was of longer duration. He was elevated to the highest court by President Madison in 1811, and remained upon the bench until 1836, when he resigned on account of increasing infirmities. His first public appearance was as a member of the House of Representatives, to which body he was elected in 1794. He resigned in 1796, to become one of the judges of the Supreme Court of Maryland. In 1802 he was named as Comptroller of the Treasury, occupying that position until appointed to the Supreme Court.

Maryland has had an illustrious part in the diplomatic history of the nation. Her sons have represented this Republic in almost every capital in the world. The record of their services begins as early as 1777. In that year William Carmichael became Secretary to the American Commission to France, the commission that effected the intervention of that government in behalf of the American Revolution. In 1790 Carmichael became Chargé at Madrid, and nine years later Secretary of our Legation to Spain.

William Vans Murray was appointed Minister to The Netherlands in 1797 and remained there until 1801. In 1819 Christopher Hughes began his diplomatic career

when he was named Chargé to Norway and Sweden. He became Minister to The Netherlands in 1825, Minister to Norway in 1830, and was again sent to The Netherlands in 1842. David Porter presented his credentials as Minister to Turkey in 1831, and continued at that post until he died in 1843. John Nelson, afterward a Cabinet officer, served for one year, in 1831, as Chargé to the Sicilies, and a little later Virgil Maxcy became Chargé to Belgium. Daniel Jenifer was made Minister to Austria Hungary in 1841, serving for four years. Carroll Spence was for four years Minister to Turkey, beginning with 1853. In 1858 James M. Buchanan was sent as Minister to Denmark, and in 1851 John B. Kerr took charge of our Legation in Nicaragua. James R. Partridge went upon his first mission, as Minister to Honduras in 1862. Subsequently he was Minister to Salvador, to Venezuela, Peru and Brazil.

Three distinguished Marylanders have been accredited by this government to the Court of St. James. William Pinkney was the first. He succeeded Monroe as Minister and remained in London until the beginning of the War of 1812. In 1868 Reverdy Johnson was assigned to the same court, remaining there two years. The last Maryland diplomat to

accept this mission was Louis McLane, who served as Minister from 1845 to 1846.

Robert M. McLane was appointed Minister to France in 1885 by President Cleveland, and continued in Paris until Harrison was elected. He had served two years as Minister to Mexico, from 1859 to 1860. Thomas B. Ferguson was named as Minister to Norway in 1894, serving for a period of three years, and Joseph W. J. Lee was Minister to Honduras and Guatemala from 1905 to 1908.

The State has been brilliantly represented in the Diplomatic Corps of more recent times. Henry White was Ambassador to France from 1906 to 1909, and yet remains the only diplomat of ambassadorial rank accorded to Maryland. The Legations at London, Paris, Rome and other great European capitals had not been raised to Embassies in the days of the McLanes. John W. Garrett, who became Minister to Venezuela in 1910, and later Minister to Argentina, would have become an Ambassador if conditions had permitted his return to Buenos Ayres. John Ridgeley Carter, after service as Minister to the Balkan States, was named as Minister to Argentina, preceding Mr. Garrett at that post. Theodore Marburg was the last diplomatic representative to be appointed from the State. He was

made Minister to Belgium in 1912, returning to this country in 1913.

Many of Maryland's ablest men have served her in the House and Senate of the United States. The list of names is a long one, and the record of their public services still longer. From the days of Joseph H. Nicholson, Philip Barton Key, John P. Kennedy, Henry Winter Davis, Charles B. Calvert, Robert M. McLane, Thomas P. Bowie and Thomas Swann, down to the period of Sydney E. Mudd, J. Fred C. Talbott, J. Harry Covington and David J. Lewis, Marylanders have occupied positions of leadership in the federal House of Representatives.

And the same is true of the Senate. Charles Carroll, John Eager Howard, John Henry, Samuel Smith, Robert H. Goldsborough, Alexander C. Hanson, William Pinkney, James Alfred Pearce, Reverdy Johnson, John A. J. Creswell, Arthur P. Gorman, George L. Wellington, William Pinkney Whyte, Isidor Rayner and John Walter Smith were Senators whose names stand out boldly in the annals of a century's legislation.

Senator Whyte enjoyed a rare distinction in the Senate. He entered the upper branch of Congress in 1868, three years after the close of the Civil War, and closed his final serv-

ice in that body just forty years later. Three separate periods of service marked his long and honored career as a Senator, and the only parallel of that record is found in the case of Henry Clay. During his term, from 1875 to 1881, Senator Whyte was a powerful factor in party councils, and took high rank as a debater and constructive legislator. He was succeeded by Arthur P. Gorman, whom he in turn succeeded when the latter died in 1906.

[*The End.*]

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